

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND
HUMAN RIGHTS

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June 22, 2022

Start: 1:11 p.m.

Recess: 2:59 p.m.

HELD AT: HYBRID HEARING, COMMITTEE ROOM,
CITY HALL

B E F O R E: Nantasha M. Williams,
Chairperson

COUNCILMEMBERS:
Rita Joseph
Kristin Richardson Jordan

A P P E A R A N C E S (CONTINUED)

JoAnn Kamuf Ward
Deputy Commissioner for Policy and
External Affairs
New York City Commission on Human Rights

Sapna V. Raj
Deputy Commissioner for Law Enforcement
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Jeanne M. Victor
Executive Director
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NYC Equal Employment Practices Commission

Meghan Rackin
Staff Attorney
A Better Balance, a legal nonprofit

Mary Moss
A New York City Resident

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2 Good afternoon, everyone. Welcome to today's
3 hybrid New York City Council meeting of the committee
4 on civil and human rights. Please place electronic
5 devices to vibrate or silent. If you wish to submit
6 testimony, you may send it to
7 Testimony@counsel.nyc.gov. Again, that's
8 testimony@counsel.nyc.gov. Thank you for your
9 cooperation. Chair, we are ready to begin.

10 CHAIRPERSON WILLIAMS: My first in person
11 hearing. Good afternoon, my name is Nantasha
12 Williams Chair to the committee on civil and human
13 rights. Thank you to everyone that is joining us for
14 this hybrid hearing this afternoon. Today, we'll we
15 will be hearing from the New York City Commission on
16 Human Rights, known as CCHR, and the Equal Employment
17 Protection Commission known as EEPC, on the
18 challenges of returning to in person work.

19 This year, many New Yorkers have begun the
20 transition to some form of in person work. Many of
21 them are returning to their respective places of
22 employment for the first time in two years. During
23 this transitional period, the health and safety of
24 employees -- and I can't read -- and employers is of
25 the utmost importance. As another new normal sets in

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2 for us all, it is important that we hear from those
3 who are tasked with protecting our rights as we
4 navigate the return to in-person work. Over the past
5 two years EEPs meetings and reports indicate it has
6 tackled the challenges posed by the COVID-19
7 pandemic. For example, in the recent agency
8 diversity plans which are reviewed by EEP. Some
9 city entities indicated that parts of their diversity
10 plan efforts were delayed due to the pandemic and
11 budgetary constraints. We also know that the COVID-
12 19 pandemic has changed the landscape of
13 accommodations and disabilities in the employment
14 context, yet it is unclear how or whether the
15 Commission's recommendations and audits were impacted
16 by the move to telework in early 2020. During the
17 pandemic, federal and local entities provided
18 guidance regarding the classification of COVID-19 as
19 a disability that requires accommodations. Further
20 information is necessary to better understand how
21 EEP is currently carrying out its mission and the
22 challenges it is facing. Additionally, as many New
23 Yorkers returned to some form of on-site work,
24 concerns regarding health, safety and accommodations
25 in the workplace may arise. As an agency tasked with

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2 handling discrimination complaints, CCHR has released
3 guidance on what is considered discriminatory in
4 relation to COVID-19.

5 Due to its status as a disability an individual
6 with COVID-19, or perceived infection, history of
7 infection, or disabilities related to COVID-19 like
8 long-term COVID, that's a thing, may be entitled to
9 reasonable accommodations from their employer.

10 During this hearing, the committee is looking to
11 learn more about the type of workplace related
12 complaints, if any, CCHR is receiving in the context
13 of returning to onsite work and the challenges or
14 patterns they have noticed as the shift takes place.
15 I'd like to thank my colleagues who have joined us
16 today. I see Assemblymember Richardson Jordan,
17 Councilmember Jesus Christ promoting you, as well as
18 committee staff Jay Surrey, and (inaudible). I'd
19 also like to thank my staff, Everton Smith and Ashley
20 Meza. I'll now turn it over to the committee counsel
21 to administer the oath.

22 COMMITTEE COUNSEL: Thank you, Councilmember.
23 Good afternoon. We have four witnesses from the
24 administration here today. Would you all please
25 raise your right hands?

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2 Do you affirm to tell the truth, the whole truth
3 and nothing but the truth before this committee and
4 to respond honestly, to Councilmember questions?

5 Thank you, it's all yours Chair.

6 My apologies. We'll turn it over to CCHR to
7 begin testimony.

8 MS. KAMUF WARD: Good afternoon, Chair Williams,
9 members of the committee on civil and human rights.
10 I'm Joanne cremophor, deputy commissioner of policy
11 and External Affairs at the New York City Commission
12 on Human Rights. It's my pleasure to join you today
13 in person, for my first in-person hearing as well, to
14 testify regarding the commission's work and the human
15 rights law protections that apply in the employment
16 context. I'm joined by my colleague Sapna Raj,
17 Deputy Commissioner of Law Enforcement at the
18 commission, and my colleagues at Equal Employment
19 Practices Commission as well.

20 The Human Rights Commission is the local civil
21 rights enforcement agency that enforces the New York
22 City Human Rights Law one of the broadest In most
23 protective anti-discrimination and anti-harassment
24 laws in the country, covering nearly all aspects of
25 city living, including housing, employment, and

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2 public accommodations. By statute, the commission
3 has two main functions. First, the Commission's Law
4 Enforcement Bureau, which I'll refer to as LEB,
5 enforces the city human rights law by investigating
6 complaints of discrimination, initiating its own
7 investigations on behalf of the city, and utilizing
8 an in-house testing program to identify entities that
9 may violate the city's human rights law.

10 Second, the Community Relations bureau, or CRB,
11 fosters intergroup relations, working in close
12 collaboration with community partners, CRB provides
13 free workshops and trainings on individuals rights
14 and the obligations of businesses, employers, housing
15 providers, and also leads bias response efforts and
16 restorative justice work.

17 Before turning to workplace protections under the
18 Human Rights Law, I want to just highlight some of
19 the important work the commission has undertaken to
20 address the uptick in discrimination and bias that
21 have occurred since the onset of COVID-19.

22 Throughout the pandemic, the commission's work
23 continued uninterrupted. For the duration of remote
24 work, the Law Enforcement Bureau was able to conduct
25 intakes and testing by telephone as well as online,

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2 and the Commission adjusted to the pandemic to
3 perform intakes remotely, and filed 643 complaints in
4 fiscal year 21, and 105 in the first quarter of
5 fiscal year 22.

6 Since the onset of COVID-19, the Community
7 Relations Bureau has continued community engagement
8 by partnering with stakeholders on trainings and
9 events, establishing a first line of defense through
10 education and outreach, as well as providing
11 techniques to safely deescalate bias incidents,
12 hosting community forums and town halls, and
13 educating communities of the rights and protections
14 under the Human Rights Law. The Commission also held
15 virtual town halls and trainings in partnership with
16 sister agencies and City Hall highlighting workplace
17 rights related to COVID-19 at various stages of the
18 pandemic.

19 The Commission conducted 1683 trainings in fiscal
20 year 21, and 390 in the first quarter of fiscal year
21 22, reaching 125,000 Plus New Yorkers. The
22 Commission also developed and disseminated guidance
23 on the roles and obligations of employers in public
24 accommodations.

25

2 The Commission like all city agencies fully
3 returned to the office in September of 2021,
4 consistent with city policy and guidance disseminated
5 by the Department of Citywide Administrative
6 Services. Since then, the commission has continued
7 to use some of the virtual tools we developed during
8 the height of COVID-19, but in the past several
9 months, we've also had the ability to reengage in
10 person in communities, including through days of
11 visibility in all five boroughs, resource fairs with
12 our sibling agencies, business corridor outreach and
13 community forums, among other activities. As I
14 noted, throughout the pandemic, the Commission
15 provided guidance to employers and employees on their
16 workplace rights under the Human Rights Law, and it's
17 those rights that I will now turn to.

18 New York City Human Rights Law has extensive
19 employment protections that prohibit discrimination
20 against individuals on the basis of 21 protected
21 classes including age, national origin, disability,
22 gender, race, sexual orientation, conviction record,
23 caregiver status, and pregnancy, among others. The
24 law generally applies to employers with four or more
25 employees, and as of March 12 of this year also to

2 domestic workers and covers hiring job postings and
3 interviews, salary, and benefits and the terms and
4 conditions of employment.

5 To comply with the human rights law, employers
6 must ensure that policies and practices including
7 those implemented in response to COVID-19 do not
8 discriminate against workers based on their race,
9 religion, national origin, citizenship, immigration
10 status, and disability, or other protected status or
11 treat workers less well on the basis of a protected
12 category. The human rights law also requires
13 employers to provide reasonable accommodations based
14 on four categories: First is disability, second is
15 pregnancy, childbirth and related medical conditions,
16 third is religion, and fourth is status as a victim
17 of domestic violence, sexual assault, or stalking.
18 Each of these are defined in in our law.

19 Disability under the human rights law includes
20 physical, medical, mental or psychological impairment
21 or history a record of such impairment. The
22 obligation to provide a reasonable accommodation on
23 the basis of disability extends to conditions
24 directly related to COVID-19 and underlying
25 conditions for which exposure COVID-19 may pose a

2 particular risk or complication. Under our law,
3 accommodations related to religion include requests
4 based on creed and religion, including but not
5 limited to observance of any particular day or days
6 or any portion thereof, as a Sabbath or holy day or
7 the observance of any religious custom, or usage.

8 In the employment context, a reasonable
9 accommodation is a change that meets an employee's
10 specific needs and allows them to continue to fulfill
11 the essential functions of their job. An
12 accommodation can include many different things, such
13 as a change in work schedule, providing ergonomic
14 equipment, granting requests for telework,
15 accessibility modifications to workspaces, allowing
16 time to pray, and granting leave from work that's
17 calibrated to meet an employee's individual needs.
18 If an employee requests a reasonable accommodation on
19 the four bases that I mentioned (disability,
20 pregnancy and related conditions, religion and
21 experience with gender based violence), or an
22 employer knows that an individual may benefit from an
23 accommodation on one of these bases, an employer must
24 engage in a cooperative dialogue and provide a
25 reasonable accommodation unless doing so would create

2 an undue hardship for the employer. The cooperative
3 dialogue is a good faith effort to understand an
4 individual's needs and limitations, how it relates to
5 the essential job functions, and the impact of a
6 request on an employer. Under the city's human
7 rights law, as I said, an accommodation is considered
8 reasonable unless an employer can show the requested
9 accommodation would cause an undue hardship. The
10 undue hardship analysis generally includes looking at
11 the nature and cost of an accommodation, the number
12 of employees, and the impact overall on business
13 operations. An employer may decline an accommodation
14 that presents an undue hardship. An employer may
15 also decline an accommodation based on disability if
16 providing that accommodation would present a direct
17 threat to workplace health or safety.

18 In order to protect health and safety of their
19 businesses, employers can take reasonable steps to
20 foster safe return to the office for all employees.
21 measures should be consistent with guidance from
22 public health authorities and up to date, medical
23 research and knowledge. Safety measures should also
24 be equally applicable to all employees. In
25 implementing safety measures employers should provide

2 reasonable accommodations consistent with the
3 processes and protections I have discussed. The
4 human rights law does not require employers to
5 provide accommodations based on an employee's status
6 as a caregiver or based on the needs of another.
7 However, discrimination based on an employee's
8 caregiver status is unlawful under the Human Rights
9 Law and employers must ensure they are not
10 discriminating against caregivers. Caregivers should
11 be afforded the same benefits, privileges and
12 conditions of work as other employees. In addition,
13 I will note that other state and federal laws may
14 also govern parent and caregivers ability to stay
15 home to care for children and may protect against
16 retaliation for doing so.

17 Finally, I will just discuss how employees can
18 seek redress when seeking an accommodation. So
19 employers are the first stop for employees seeking a
20 reasonable accommodation in the workplace. If
21 employees request an accommodation and it's denied,
22 an individual can contact the commission to file a
23 complaint or conduct a pre-complaint intervention.
24 Individuals can also file claims at the State
25 Division of Human Rights and the Federal Equal

2 Employment Opportunity Commission if their employer
3 is covered under that... under federal law.

4 When the commission staff assess that an
5 aggrieved person has a claim under the city human
6 rights law and a complaint is filed, an investigation
7 is initiated. The Commission can also initiate its
8 own investigation based on public information, tips
9 and referrals. When initiating its own
10 investigation, the Law Enforcement Bureau often take
11 steps before filing a complaint, including sending a
12 business a cease and desist letter or requesting
13 information on policies and practices. If a
14 complaint is filed regarding an accommodation or
15 another protection to Human Rights Law, the Law
16 Enforcement Bureau investigates by gathering data and
17 documents and conducting interviews of witnesses,
18 employees or others with relevant information.
19 Ultimately, the Law Enforcement Bureau reaches a
20 determination as to whether the evidence that has it
21 has gathered supports the allegations in the
22 complaint. If the Law Enforcement Bureau finds
23 probable cause it prosecutes the respondent business
24 in a hearing at the New York City Office of
25 Administrative Trials and Hearings, also known as

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2 OATH. And before initiating the prosecution, the Law
3 Enforcement Bureau attempts to settle or conciliate
4 the case. If the case doesn't settle, the OATH holds
5 a hearing and issues a report and recommendations.
6 Then the commissioner of CCHR, our agency, will issue
7 a final decision dismissing the case or ordering
8 relief for the complainant. Through conciliation and
9 decisions and orders the Commission can award money
10 damages for complainants, including lost wages,
11 emotional distress damages, and attorneys' fees and
12 issue monetary civil penalties that are paid to the
13 general fund of New York City. The Commission also
14 has the authority to order affirmative release,
15 including postings of notices of rights, engaging in
16 cooperative dialogues and creating or revising
17 policies, conducting trainings and more.

18 Thank you very much for the opportunity to
19 discuss the ways that human rights law protects New
20 York's workers and we look forward to continuing the
21 commission's work in collaboration with the Adams
22 administration, sibling agencies, and the Council. I
23 will now turn it over to... (crosstalk)

24

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2 COMMITTEE COUNSELL: Thank you. We can now move
3 to testimony from the Equal Employment Practices
4 Commission.

5 MS. VICTOR: Okay, well, my name is Jeanne
6 Victor. I'm the Executive Director of the Equal
7 Employment Practices Commission. Thank you Chair
8 Williams and members of the committee for the
9 opportunity to testify today regarding the challenges
10 we in the EEPC have encountered related to returning
11 to the office post pandemic. I am here today with
12 our Executive Agency Counsel and Director of
13 Compliance Jennifer Shaw.

14 My remarks will focus largely on our returning
15 workforce, and how the pandemic has impacted our
16 ability to conduct our work. As you may be aware,
17 but by way of background, the Equal Employment
18 Practices Commission was created by the 1989
19 amendments to the New York City Charter. The EEPC is
20 an independent, non-mayoral oversight entity tasked
21 with auditing, reviewing and monitoring the equal
22 employment practices of the city of New York. In
23 this capacity the EEPC audits and evaluates the
24 employment practices and procedures of approximately
25 143 municipal entities, agencies, and the offices of

2 elected officials and their efforts to ensure fair
3 and effective equal employment opportunity for women
4 and minority employees and applicants seeking
5 employment with the city.

6 Audits are conducted at least once every four
7 years and consists of several phases, including data
8 collection, evaluation and analysis, and monitoring
9 the entity to ensure areas of noncompliance are
10 rectified. Just to be clear, our audits look back in
11 time, which means the audit the EEPC initiated this
12 year will review a period of time when COVID was
13 rampant. As such, because the impact of the pandemic
14 from an audit perspective won't be known for some
15 time, today, I'm able to provide information specific
16 to the EEPC but not the city workforce as a whole.

17 In addition to our audit responsibilities, the
18 EEPC is charged with conducting a decade-long
19 citywide analysis of racial and ethnic classification
20 pursuant to Local Law 13 of 2019. The EEPC must
21 publish a report annually with policy, legislative,
22 and budgetary recommendations to the mayor and City
23 Council for correcting chronic or systemic under-
24 utilization in the city's workforce, achieving
25 citywide affirmative employment objectives, and

2 increasing diversity in the recruitment, selection,
3 retention and promotion of city employees.

4 The EEPC also periodically hosts educational
5 events for city employees on EEO topics of relevance.

6 On June 9 of this year, the EEPC hosted it's
7 Symposium 2022, Understanding and Addressing Under-

8 Utilization of Women and Minority Group Members in

9 New York City's Workforce, held remotely via WebEx

10 webinar. Three speakers from both city government

11 and the private sector provided different

12 perspectives on under-utilization, and a panel

13 roundtable discussed recruitment and retention

14 strategies used by city agencies. Attendance at this

15 event was approximately 225 city employees and

16 feedback has been overwhelmingly positive. When the

17 pandemic commenced in 2020, and non-essential city

18 workers were ordered to work remotely, the EEPC

19 consisted of approximately 14 employees, which

20 remains our current headcount. It was initially

21 thought that the duration of working remotely would

22 be relatively short, a matter of weeks. But as the

23 pandemic continued to rage on, the EEPC had to adjust

24 its processes to ensure our audit mandate would still

25 be met.

2 The biggest challenge associated with working
3 remotely was the EPCs own lack of technology and
4 resources. It became clear that matters integral to
5 audit completion, such as data collection from
6 audited agencies, the creation of and access to
7 electronic documents, the ability to conduct meetings
8 remotely, to scan, copy and sign documents, and take
9 telephone calls all had to be dealt with. Processes
10 that had been used for years were just not compatible
11 with remote working. Fortunately, the EEPC despite
12 its small size did and still does have an
13 administrator of computer systems and support, who,
14 working with then executive directors Cherise Terry,
15 developed protocols for accessing the EEPC systems
16 and databases. Workarounds were implemented, such as
17 accepting documentation during compliance monitoring
18 via email, rather than asking agencies to upload
19 documents directly into the EEPC's team central
20 tracking system.

21 New employees hired before remote work began now
22 had to be onboarded virtually. Concessions were also
23 made. For example, because licenses needed to be
24 purchased to use Microsoft Teams, and the EEPC had
25 minimal budgetary resources, the decision was made to

2 instead use WebEx to hold remote meetings.

3 Nevertheless, the EEPC was able to continue to
4 conduct business, complete audits, and assist
5 agencies in reaching EEO compliance. But it must be
6 noted that this success was only possible due to the
7 assistance of all of our employees who were required
8 to use their personal cell phones, laptops, printers,
9 scanners, Internet access and supplies without
10 reimbursement or any additional compensation. This
11 was done largely without any complaint whatsoever.

12 Lastly, commission meetings were held remotely and in
13 accordance with the time requirements set forth in
14 Charter Chapter 36. In 2021, as staff were ordered
15 back into the office, our employees expressed genuine
16 concern about the safety of the EEPC's office. Over
17 75% of our staff sits in a single room with a row of
18 12, low wall cubicles, and little space for anything
19 else. To ensure the safety of our employees, the
20 EEPC undertook several measures, such as scheduling
21 staff to come into the office on a staggered basis to
22 enable social distancing. We also outfitted the
23 office space with sneeze guards, which served to
24 extend the walls of the partitions, purchased several
25 air purifiers and provided our employees with PPE and

2 rapid COVID tests. Additionally, although in-person
3 board meetings resumed in June, during the latter
4 part of 2021, the EEPC began to livestream its
5 meetings on YouTube, so that interested parties could
6 watch the board conduct business in real time,
7 without having to be physically present or wait a
8 period of days for the video to be uploaded to the
9 EEPC website.

10 Once our employees returned to the office full
11 time, we decided as a group to continue wearing our
12 masks in the office, and to take safety precautions,
13 such as wiping down common areas after every use.
14 Yet despite these actions, the EEPC has had two
15 instances of having to request enhanced cleaning of
16 the office by DCAS due to employees who contracted
17 COVID and exploit expose their colleagues in the
18 office. The first instance was relatively minor, but
19 the second instance, which happened only five weeks
20 ago was very alarming. Several of our employees
21 tested positive within a day of each other, while
22 other employees felt sick and stayed home at this
23 very same time. Additionally, our board and
24 commissioners had to be notified that they too had
25 been exposed and should be tested for COVID, at risk

2 exposing their families to the virus. This incident
3 serves to heighten our staff's concerns about just
4 how safe the office actually is. Unfortunately, the
5 EEPC was without any other space or resources to make
6 additional safety modifications to the office.

7 I'll summarize by saying that during the
8 pandemic, the EEPC was able to fulfill its mandate
9 despite the challenges of technology, the scarcity of
10 resources, the retirement of the EEPCs, executive
11 director after more than 25 years of city service,
12 the recruitment of her new replacement and the
13 addition of a new Chair and new commissioner,
14 although the board still lacks two commission
15 members. In fact, when the EEPC conduct concluded
16 its sexual harassment audit in 2021, I am proud to
17 report that the EEPC had issued an unparalleled 50
18 determinations of compliance to municipal entities
19 that implemented corrective actions. In fact, the
20 EEPC completed record numbers of audits in both 2020
21 and 2021. Additionally, feedback from a survey the
22 EEPC, conducted in 2021 indicated that many EEO and
23 HR professionals involved in our 2020 audits found
24 the EPCs performance to be excellent, good, or
25 satisfactory for all of the survey categories.

2 Moreover, the EEPC received its highest performance
3 rating, 92%, regarding the professionalism of the
4 audit teams interactions with audited agencies. Also
5 in 2021, the EEPC completed its first in the series
6 of 10 reports pursuant to local law 13. In 2022, the
7 EEPC commenced a new audit, and is currently
8 completing its second report on under-utilization.

9 While the EEPC has a great team that has gone
10 gone above and beyond repeatedly exceeding
11 expectations, I would be remiss if I did not mention
12 that the EEPC is still without adequate staff and
13 expertise needed to perform our mandated work, and
14 commensurate with the importance of our agency's
15 mission. The pandemic forced us to think about how
16 to work and accomplish our mission in a new way. I'm
17 happy to report that even during those days of
18 extreme fear and uncertainty, the EEPC exceeded all
19 goals and successfully completed its mandates, and
20 has returned to the office, not returning to the way
21 work was executed prior to the pandemic, but by
22 incorporating those things that have made working
23 remotely successful into our processes today.

24 That concludes my remarks. Thank you.

2 CHAIRPERSON WILLIAMS: Thank you. And I'd like
3 to acknowledge Councilmember Rita Joseph. I was
4 calling colleagues Assemblymember before you came
5 Rita. So I'm working on the commissioners. I know
6 you need to. Hopefully you'll get it soon. I have
7 been talking to the Speaker's office, so I hear you
8 loud and clear. And I will start questions for CCHR.
9 Have you received any complaints of workplace
10 discrimination and relations to COVID-19?

11 MS. KAMUF WARD: Thank you. So we have received
12 a lot of complaints in the employment context. I
13 don't have numbers specifically on COVID-19. I have
14 numbers that relate to reasonable accommodation
15 requests from August until June of this year. We
16 have received about 700 inquiries related to
17 employment and filed 157 cases. Of those increase
18 less than 10% were related to reasonable
19 accommodations -- so approximately 60 or so -- and we
20 have 42 filed cases, again, related to reasonable
21 accommodations. What I can say about those cases is
22 the vast majority relate to disability, but I don't
23 have the COVID specific numbers. I can go back to
24 the agency and see what we've coded that with. If

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2 that would be helpful, then we'd be happy to follow
3 up with that information.

4 CHAIRPERSON WILLIAMS: Okay, yeah, that will be
5 helpful. And in terms of like a comparison, would
6 you say that the numbers have shifted from 2020 to
7 2021?

8 MS. KAMUF WARD: So I would say in terms of kind
9 of trends, we're seeing similar numbers of cases and
10 high... the highest cases continue to be in the area
11 of employment, and within that relating to race, and
12 gender, and disability. So the trends overall, the
13 macro level are the same. The number of inquiries
14 and complaints filed changes over time. And...
15 But... But generally, I would say the trends are
16 similar. I don't know if you'd agree.

17 MS. RAJ: Yeah.

18 CHAIRPERSON WILLIAMS: So the number... I think
19 you sent 60 complaints? Around 60 for reasonable...?

20 MS. KAMUF WARD: We have 60... I think it's 67
21 inquiries that are related to reasonable
22 accommodations and 42 cases that have been filed. So
23 that means they're sitting with our agency at various
24 stages of trying to either investigate what's
25 happened, assess what the basis of the claims is, or

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2 where we think there's been a violation, attempting
3 to do a pre complaint intervention with the employer
4 and see if... if the needs can be met, if the
5 cooperative dialogue was followed, if the process was
6 proper and the outcome (inaudible).

7 CHAIRPERSON WILLIAMS: And so specifically, you
8 would say those 60 cases are in regards to denials of
9 reasonable accommodations, or is it a mixture of
10 things involving reasonable accommodation?

11 MS. KAMUF WARD: Well, in reasonable
12 accommodations, it would really only get to us if
13 it's... if it's a denial. Yeah. Correct.

14 CHAIRPERSON WILLIAMS: Have you seen a rise or
15 decline and complaints in relation to workplace
16 discrimination in 2020 so far? Specifically as more
17 New Yorkers have transitioned from remote work to
18 some form of on site work?

19 MS. KAMUF WARD: So I think there have been
20 definitely higher numbers of inquiries in in the
21 return-to-work period, which again, I'm counting from
22 August until June, though the city workforce came
23 back, beginning in May. So I think we've seen an
24 uptick in inquiries, but again, the general trends in
25 terms of employment versus other categories of our

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2 law are similar as they have been in 2019, 2020,
3 2021.

4 CHAIRPERSON WILLIAMS: And you have been tracking
5 them in relations to COVID? Or would you have to
6 like go back and sort through them? Because I
7 recognize that people might reach out to you and it
8 might be COVID related, but it also is like touching
9 something else that they might have been
10 discriminated against?

11 MS. KAMUF WARD: So we generally don't track and
12 report on COVID specific, it's that we're looking at
13 the other protected categories within our law. But
14 we do we do have some coatings for COVID that we can
15 look into and follow up with you, as I said, after
16 the hearing.

17 CHAIRPERSON WILLIAMS: Okay. Have you had to
18 refer any inquiries or complaints regarding the
19 workplace to other agencies? If so, what sorts of
20 complaints were these? And which agencies received
21 these referrals? And why?

22 MS. KAMUF WARD: So I don't have that information
23 in front of me. I know that oftentimes... or
24 sometimes, rather than often, cases can be filed with
25 EEOC and simultaneously to us, but that's a fairly

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2 small number. In terms of referrals to other
3 agencies, I would have to look back. We actually
4 don't track that.

5 CHAIRPERSON WILLIAMS: Okay, I'm going to ask you
6 questions, but based off of your previous answers, I
7 don't think you'll be able to ask them... or answer
8 them, excuse me.

9 So how did the reporting of workplace
10 discrimination change when offices moved to telework?
11 And if you need to kind of circle back to us to give
12 more details? That's fine.

13 MS. KAMUF WARD: Can you just repeat the
14 question?

15 CHAIRPERSON WILLIAMS: Yeah. How did reporting
16 of workplace discrimination change when offices moved
17 to telework?

18 MS. KAMUF WARD: So you mean how... like, how
19 were the basis of the kinds of... (crosstalk)

20 CHAIRPERSON WILLIAM: Yes, like, if people are...
21 Yeah, like, if people are like in-person, they might
22 be reporting differently than now being remote, and
23 then vice versa, now having to come back on site.

24 MS. KAMUF WARD: I think a lot of the issues,
25 honestly, remained very similar. Unfortunately,

2 discrimination in the workplace continued to occur.
3 I think people continue to seek accommodations. Even
4 if you're a remote, your accommodation might be flex
5 work, or it might be to have an accessibility
6 software that you might have in the office, but you
7 don't have at home. So a lot of those kinds of
8 trends continued to present themselves. And I think
9 what shifted was how our agency was able to receive
10 that information, right?, like being able to be
11 remote. And you can also, if you're working from
12 home, you might have the confidentiality to make a
13 phone call that you wouldn't necessarily be able to
14 make if you were in... in your workplace. But... But
15 I don't think the... the crux of what we the universe
16 of types of things we were seeing greatly changed for
17 the employment context.

18 CHAIRPERSON WILLIAMS: And would you say that...

19 To your point about how your agency received the
20 complaints, would you say that folks had a greater
21 difficulty reporting the issues? Did you see that?

22 MS. KAMUF WARD: So, no. Because again, I... as I
23 said, the numbers of inquiries remained fairly,
24 fairly high. I think what we are unable to track is
25 how many people would have come to the office during

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2 remote time who might not have technology, they might
3 not have the internet, they might not be able to
4 access us that way and might be walk-in. So that is
5 something that you know, now that we're back in the
6 office is not... is not a concern, but something that
7 might have been a barrier to people reporting or
8 engaging with us previously.

9 I think the other factor is many ways that we get
10 tips and referrals are in our outreach to the
11 community, which obviously during COVID became also
12 virtual. So we weren't in... on the streets, meeting
13 people. We weren't at resource fairs. Now we have
14 the capacity to be doing that.

15 CHAIRPERSON WILLIAMS: You may not be able to
16 answer this now, but what types of complaints are
17 more prevalent when telework was more widespread? I
18 think you've hinted at that in your previous answer.
19 But I don't know if you're seeing different
20 complaints because folks are at home or like you
21 said, a lot of it is just more or less the same.

22 MS. KAMUF WARD: I think very similar trends.
23 Yeah. Not... Not many changes.

24 CHAIRPERSON WILLIAMS: And would you say there's
25 any changes now, that you're receiving? Is there...

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2 I guess comparing it to the complaints you're
3 receiving now, you would just say again, it's more or
4 less the same?

5 MS. KAMUF WARD: Yeah. Yep.

6 CHAIRPERSON WILLIAMS: Okay. Has CCHR provided
7 recommendations for accommodations in a hybrid work
8 environment? I know you've...

9 MS. KAMUF WARD: Specifically no, though I think
10 our guidance attempts to give a lot of examples that
11 would cover both in the workplace and people working
12 from home. Again, a lot of it is modifications to
13 either when work is done or a workspace, which might
14 be equally applicable if you're in the office, or if
15 you're... if you're at home.

16 CHAIRPERSON WILLIAMS: Okay. What challenges are
17 employers facing in ensuring that employees receive
18 necessary accommodations while COVID-19 is still
19 prevalent?

20 MS. KAMUF WARD: I... I... This is not really
21 based on our cases, but I think what I can see as a
22 challenge is just the changing medical information
23 and the context, right? So it's very hard to be able
24 to pivot, even if you know the right process and you
25 understand the standards, the guidance is changing.

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2 And so for employers to be able to keep up with that
3 can... can be a challenge.

4 CHAIRPERSON WILLIAMS: Thank you. Has CCHR seen
5 a drop in sexual harassment complaints since moving
6 to telework or have complaints persisted, but the
7 nature of such harassment has changed?

8 MS. KAMUF WARD: Consistent numbers. Staying the
9 same. And I think that could be in part because our
10 definition of gender based harassment is quite broad,
11 and we continue to see behavior that would violate
12 our law in workplaces.

13 CHAIRPERSON WILLIAMS: What about online
14 harassment? Fewer? Same? More or less?

15 MS. KAMUF WARD: We have none that we can speak
16 of.

17 CHAIRPERSON WILLIAMS: Okay. How CCHR had any
18 conversations with the state's chief disability
19 officer on the post-pandemic challenges that people
20 with disabilities are facing when returning to or
21 seeking work?

22 MS. KAMUF WARD: Not specifically to my
23 knowledge, but we work fairly closely with MOPD and
24 DFDA, and other city agencies who are thinking about
25 always the challenges that individuals face in the

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2 workplace, but particularly related to disability or,
3 or age.

4 CHAIRPERSON WILLIAMS: Okay. And before going
5 into questions with EEPC, I will pause and open it up
6 for any of my colleagues if you have any questions.
7 Yep. Councilmember Richardson Jordan?

8 COUNCILMEMBER RICHARDSON JORDAN: Yeah. I just
9 wanted to ask sort of as a follow up to the last one.
10 If there was anything... and I... and I get that the
11 the numbers may not be there, so perhaps anecdotally,
12 but has there been anything that is... that has shown
13 an increase in discrimination based on age? In
14 alignment with the pandemic? You know, as... as
15 people have had to work remotely? I'm just wondering
16 if... anecdotally if that's come up the
17 discrimination based on age.

18 MS. KAMUF WARD: So I would say we anticipated
19 that and that's covered in a lot of our guidance. We
20 haven't seen that, though, play out in what we are
21 receiving, again talking about the complaints. I
22 think the caveat I would add there is for
23 accommodations, there is no legally required
24 accommodation for age. So if there is someone who
25 has an underlying condition that qualifies as a

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2 disability, we would see it as a disability rather
3 than as an age claim. But that... that's the caveat,
4 but otherwise, no.

5 COUNCILMEMBER RICHARDSON JORDAN: Okay. All
6 right. Thank you.

7 MS. KAMUF WARD: Thanks.

8 COUNCILMEMBER JOSEPH: Good afternoon. I'm
9 Councilmember Rita Joseph. I wanted to find out in
10 terms of disabilities, how many cases were you
11 receiving? Are the numbers the same during the
12 pandemic, post pandemic? And were these... also
13 these hybrid models, were devices given to the
14 staffers to also make their jobs easier? Or was that
15 an issue? Was that an issue or not an issue?

16 MS. KAMUF WARD: The one question would be
17 related... relating to the complaints that we're
18 seeing, and one is for our own staff.

19 In terms of complaints that we're seeing, I think
20 what we have right now is the numbers for the first
21 quarter of fiscal year 22. I think I would hesitate
22 to make any comments about trends based on that data,
23 because really a lot of employers are still working
24 hybrid, though the numbers and kind of percentage of
25 disability cases as... as a part of the whole

2 hasn't... hasn't changed. So again, the trends stay
3 somewhat the same.

4 And in terms of accommodations for our own
5 employees, I would have to go back to our team to
6 identify what the... what the bases for requests have
7 been, and how many have been related to the request
8 for technology or other assistive materials.

9 COUNCILMEMBER JOSEPH: So your like your normal,
10 what is your normal reporting? Well, not reporting.
11 What is your normal, like, data collection process,
12 like, on complaints? Because I know, when we're
13 asking certain questions, specifically, involving
14 COVID-19, it's not clear whether or not you're
15 tracking cases that you feel are specific to COVID-
16 19. Am I hearing that correctly?

17 MS. KAMUF WARD: So some cases... Primarily,
18 cases are coded versus against protections in our
19 law. Sometimes we're able to identify something as
20 COVID specific, but some things in the context of
21 disability could also be related to something else
22 happening in the workplace. So we're not always able
23 to identify if COVID is the dominant piece of a case,
24 but we do attempt to track that. And I... It's just
25 not something that goes in our annual report and are

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2 typical numbers. So I'll go back and see how we're
3 able to run the numbers in our systems to identify.

4 COUNCILMEMBER JOSEPH: Yeah, because I'm just
5 thinking that... like, I'm wondering... Because I
6 know so many... Even within my office, like I know
7 so many people have, like, issues with, like,
8 reasonable accommodations. And, yeah, it's
9 interesting to hear, I guess, from your records that
10 you feel like everything has pretty much stayed the
11 same. There's been no fluctuations, give or take in
12 the wake of COVID. That's what I'm hearing.

13 MS. KAMUF WARD: Oh, so, I mean... I will... The
14 caveat there is that we see people who are wanting to
15 file a complaint that they've been denied a
16 reasonable accommodation. So we certainly don't have
17 kind of a view into employers and what's happening
18 every day. It's just our numbers are based on people
19 who file complaints.

20 COUNCILMEMBER JOSEPH: Yeah. Which is like
21 brings back to the other question about outreach and
22 like, what other things is CCHR doing to make sure
23 that people know that they can come to the agency to
24 lodge complaints?

25

2 MS. KAMUF WARD: And so I think, one... it's not
3 a silver lining... but one thing that we have seen in
4 COVID, is that we were actually able to reach higher
5 numbers of New Yorkers by using virtual outreach
6 methods. Again, there's going to be a section of the
7 population who are not accessing that information.
8 And now that we're back in the office, we are doing
9 many more intake sessions and trainings in places
10 where we were pre-pandemic. And so I'm hopeful that
11 that... that helps get the word out. And our numbers
12 of trainings continue to really go... go up. I think
13 not everyone wants to always file a complaint. And
14 the other piece is that private employers are still
15 often working, not fully back in the office. So some
16 of the things that you might expect to see, I think
17 have not fully played out. So we'll... I think we'll
18 have more data, kind of like EEP was saying, some of
19 it is backward looking because it's complaint driven.
20 So it's not necessarily what's happening in real
21 time.

22 CHAIRPERSON WILLIAMS: Yeah. I had another
23 question. Do you guys have any questions?

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2 COUNCILMEMBER JOSEPH: Oh, quick question. Um,
3 is language access available for non-English speakers
4 to file complaints?

5 MS. KAMUF WARD: Yeah.

6 COUNCILMEMBER JOSEPH: What are your languages?

7 MS. KAMUF WARD: So we have staff that speak 28
8 languages, and I don't have the whole list. But what
9 I do have is that our info line speaks five
10 languages. I can tell you what those are. They are
11 Spanish, Hindi, Urdu, Portuguese, and Nepali. And
12 anyone who contacts our agency also receives
13 information in Spanish, Arabic, Mandarin, and Russian
14 on first blush. And then we either utilize staff who
15 speak languages or interpreters to engage with
16 communities.

17 CHAIRPERSON WILLIAMS: You'll have to excuse me,
18 because you know, I'm still learning my job six
19 months in, so I have a question just in terms of like
20 other city agencies. Do they report to... like
21 people... City employees, do they also report to
22 CCHR? And do you... Have you been able to track
23 that?

24 So are there, like, city employees reporting to
25 CCHR? Is there any track record? Does that happen?

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2 Because I know and like previous offline
3 conversations, I would love for you all to be super
4 independent to also hold city agencies accountable.
5 So I'm just wondering, like, do you find that city
6 employees you know, at the very least I feel like
7 city employees should know about the resources that
8 the city has for them. So have you been seeing
9 complaints from...?

10 MS. KAMUF WARD: Yes.

11 CHAIRPERSON WILLIAMS: Okay.

12 MS. KAMUF WARD: So yeah, so we receive again,
13 have individuals who want to file complaints. If
14 they work for a city agency, they can file complaints
15 with us. What I will say is, there is another city
16 agency, which is the Department of Citywide
17 Administrative Services, which tracks for all city
18 agencies, things like reasonable accommodation
19 requests, again, we only receive what comes to vis-a-
20 vis a complaint, or a tip, or a referral. And we do
21 receive cases against... against city agencies.

22 CHAIRPERSON WILLIAMS: Okay. Thank you. We'll
23 send some follow up questions...

24 MS. KAMUF WARD: Thank you.

25

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2 CHAIRPERSON WILLIAMS: ...if my colleagues don't
3 have any more questions for CCHR? Good?

4 Okay. So on to EEPC.

5 First question is: What additional burdens does
6 EEPC take into consideration due to changing
7 workplaces?

8 MS. VICTOR: (inaudible, microphone off)

9 CHAIRPERSON WILLIAMS: Sure. What additional
10 burdens does EEPC take into consideration due to
11 changing workplaces?

12 MS. VICTOR: (inaudible, microphone off)

13 CHAIRPERSON WILLIAMS: Yeah, like I guess,
14 perhaps additional burdens from the agencies?
15 Because folks are working hybrid or remotely?

16 MS. VICTOR: (inaudible, microphone off)

17 Thank you, if they were working remotely, they,
18 they may not have had the access to the database for
19 EEPC in order to upload documents. So... So what we
20 had to do was we worked with the agencies to make
21 sure that we had some workarounds in place so that
22 they could send their documents directly to the
23 analysts, for example. Those kinds of things we were
24 able to work out: the logistics of some of the some
25 of the... the actual processes of how do you get

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2 documents? Or if we demanded documents? And... And
3 the agency said, "Well, not in the office or working
4 remotely? Well, when are you going to be in the
5 office? When can you get it to us?" You know, we...
6 we had to bend our processes somewhat so that we can
7 allow our agencies to be able to, you know, when they
8 go into the office, they could provide us with the
9 documentation, as opposed to our putting a deadline
10 on it. So that, you know, we had to... you know, we
11 had to be more collaborative.

12 CHAIRPERSON WILLIAMS: Okay, how does telework
13 impact the EEPC work going forward? Both for the
14 commission employees and for the agencies EEPC
15 oversees?

16 MS. VICTOR: So... So how telework has
17 impacted... impacted us going forward, is we continue
18 to hold meetings using WebEx. You know, we've...
19 we've tried to take the best of what we used during
20 the pandemic to continue to use it today, so that we
21 can make life as simple as possible for our
22 agencies... for... for those agencies that are being
23 audited, et cetera. So, for example, although we're
24 in the office, there might be times when agencies may
25 need a little additional time, in order to provide us

2 with the documentation that we need. We have been
3 more collaborative in providing them with additional
4 time. Now, I'll flip it over to Jennifer to see if
5 there's anything that I'm missing in terms of a
6 telework processes.

7 MS. SHAW: I think for the EEPC, the biggest
8 thing has been kind of working with agencies in a way
9 that we hadn't necessarily before. Usually... We are
10 an oversight agency, we do audits, and we have to go
11 in and it's very... I want to say mechanical, but we
12 get our documents, we make our analyses, and we...
13 and we make determinations and we fix... we help fix
14 what needs to be fixed.

15 When you're dealing with the pandemic, we had our
16 own analysts who were dealing with their own personal
17 issues. Everybody in our office was impacted by a
18 COVID in some way. And when you pick up the phone
19 and you call someone on the other side, you don't
20 know what they're dealing with either. And we had
21 people who had no access to documents because
22 everything was in hardcopy. People who were not in
23 that role, but the person who was for whatever reason
24 was no longer with the agency. So we had to kind of
25 take a more collaborative approach and work with

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2 agencies and kind of be more of a team effort than we
3 had taken in the past, and I think that that's
4 something that we've continued to hold on to going
5 forward. We've changed a couple of our audit
6 processes for this new audit we started in 2022, to
7 be more collaborative, to be more transparent. So
8 those kinds of things that we had to deal with...
9 work arounds and such, we are continuing to try to
10 provide for that for our agencies, especially since
11 the pandemic remains ongoing.

12 CHAIRPERSON WILLIAMS: Thank you.

13 MS. VICTOR: And if I could add too...

14 CHAIRPERSON WILLIAMS: Sure.

15 MS. VICTOR: ...one of the things that we tried
16 to do in order to be more collaborative is to try
17 to... to give more information to the agencies.

18 Prior to the start of this year's audit, we held
19 information sessions with agency heads, and with...
20 with the EEO and HR professionals so that they have
21 an understanding of what to expect within... within
22 the EEPC audit. We are sending out more
23 communications to the agencies, we are trying to make
24 ourselves more available to the agencies so that
25 there's no mystery as to what the EEPC does and what

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2 we're looking to accomplish. The goal is to make
3 sure that every agency is in compliance. So if we
4 want every agency to be in compliance, we want to
5 make sure that they... they understand that.

6 CHAIRPERSON WILLIAMS: Got it. Thank you. In
7 your mid 2020 meetings, EEPC discuss adding a study
8 on the impacts of COVID-19 to audits. Did this
9 happen? And does the EEPC report show this?

10 MS. VICTOR: Do you want to take that one?

11 MS. SHAW: Sure. We actually did not add that to
12 our audit in a specific COVID-19 direction. What we
13 did look at is our new audit is focused on general
14 employment practices, but specifically focusing on
15 the under-utilization of minorities and women in the
16 workforce. So we look at recruitment strategies, we
17 look at selection strategies, and in so doing, we're
18 looking at numbers that will reflect what happened
19 during the pandemic: COVID separations... we won't
20 know whether or not it's a separation based upon
21 COVID or not, but we do know that if there's a
22 separation, and a new hiring, then we can look at
23 whether or not there's underutilization and how the
24 agency addressed it. We just started that audit,
25 though. We don't even have any findings yet, because

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2 we are on a four year cycle, and we just initiated
3 it. Our analysts are doing the first of their
4 determinations now. So no, not a specific COVID-19
5 driven, but how separations and, and those kinds of
6 hirings and promotions and retention is impacted.

7 CHAIRPERSON WILLIAMS: Yeah, I think both between
8 you and CCHR, it doesn't seem like there has been a
9 tracking of things like tagging things COVID-19,
10 which I can understand because data is still coming
11 out. And then especially for you, you have to
12 request data from agencies, which I know can take
13 time. But maybe it is something we should look into
14 as the pandemic persists, and there's... Like, I
15 briefly mentioned it in my opening remarks, that
16 long-term COVID is a thing that people aren't talking
17 about, and so I think it would be helpful to sort of
18 understand what we're seeing potentially in relations
19 to COVID. But I understand perhaps why you don't
20 have it now, but I'm just wondering if there's ways
21 to, you know, tag it somehow. Like if someone is
22 like coming in for intake or complaint, like is there
23 a way to like ask them just a COVID-19 question, just
24 to see if it's COVID-19 related. And the same thing
25 for EEPCC: If you're gathering documents, is there

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2 like just one additional question, you could ask an
3 agency to be able to be a little bit more detailed or
4 concise. But yeah, that was just a thought that just
5 occurred to me because I think a lot of... The
6 purpose of this hearing, which is to sort of
7 understand like, how the pandemic has impacted
8 people's return to work, has impacted people's work
9 environments, period. But if we're not really
10 collecting data that's specific to COVID-19, and
11 we're sort of almost using the same data collection
12 methods, is really hard to, like, tease through,
13 like, what truly is a COVID-19 impact. But I
14 digress. That was a mini-TED talk.

15 How did EEPC assess how employees were
16 functioning when teleworking?

17 MS. SHAW: So I was part of the EEPC during the
18 beginning part of the pandemic when we first started
19 teleworking in March 2020, and we had to pivot very
20 quickly. We had not had any kind of technology or
21 kind of data collection, or system access outside of
22 a computer on the city network. So basically, we had
23 to, in the beginning, use the honor system. We had
24 our employees check in, and we worked... We had a lot
25 of team meetings to try to determine what methodology

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2 would work best to get the information we need, and
3 to produce audits in a time of uncertainty and a time
4 where more sensitivity is needed. And we... we have
5 a really great team, and we were able to achieve that
6 because of that. And I think that's one of the times
7 that our small stature and the size of our
8 organization does come in to be a benefit, because we
9 are... We met regularly met on team meetings for the
10 entire organization, and talked about different
11 problems and tried to brainstorm, and that's how we
12 were able to achieve our numbers for 2020, despite
13 what was going on in the rest of the world.

14 CHAIRPERSON WILLIAMS: So in addition to how you
15 addressed employees working within the EEPC, in terms
16 of like other employees, how were you able to assess
17 how they were functioning? For instance, were there
18 any unanticipated challenges that EEPC had to review
19 considering the nature of telework? So you all
20 provide recommendation? So did you have to adjust
21 any of your recommendations because people were
22 teleworking to account for employees who have
23 disabilities, or mental health concerns, or childcare
24 needs?

25

2 MS. SHAW: So we were conducting a sexual
3 harassment prevention practices audit during the 2020
4 year, and 2021, and so a lot of our recommendations
5 did have to now take into account that people were
6 not in office. For example, complaint investigation
7 maintenance of files was different than what had been
8 before. Intake was different. For providing
9 training for people. A lot of the training was on
10 city-access-only systems, and so now we couldn't ask
11 agencies to ensure certain training that they simply
12 didn't have access to anymore.

13 So we did modify some of our recommendations. We
14 tried to maintain as much as we could of what we
15 deemed to be the standard that we were trying to have
16 agencies achieve. But in terms of one-on-one type of
17 thing, we don't... that's not what the EEPC does. We
18 audit programs. We audit policies and procedures.
19 So that was kind of... The programmatic
20 recommendations, were really the only things that we
21 could have modified.

22 CHAIRPERSON WILLIAMS: I have a question,
23 actually, for CCHR when I just thought about
24 childcare. Did you receive like caregiver
25 complaints? Because I know a lot of people complain

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2 because they couldn't send their children to school.

3 And if they were asked to report to work, they didn't

4 have a person, so did you receive those type of

5 complaints?

6 MS. KAMUF WARD: So we do receive inquiries that

7 are based on caregiver status, and there is

8 discrimination protection for caregivers in our law,

9 but there is no reasonable accommodation for

10 caregivers. So we do receive inquiries in... in that

11 arena, but it's more often related to the application

12 of workplace policies outside of the RA context,

13 since that's not an accommodation.

14 CHAIRPERSON WILLIAMS: So they're protected, but

15 there's no, like, special accommodations that they

16 could receive.

17 MS. KAMUF WARD: Correct. Because accommodations

18 run to you based on your status or condition, but as

19 I think I said there are some federal policies and

20 other state laws that allow for remote work related

21 to COVID.

22 CHAIRPERSON WILLIAMS: Did you see an increase in

23 caregiver complaints, or you still think is more or

24 less the same?

25

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2 MS. KAMUF WARD: I don't have that information.

3 Like, we can look into inquiries and see... and

4 provide that information in follow up. I don't have

5 that with me today.

6 CHAIRPERSON WILLIAMS: Okay. Thank you. Back to

7 EEPC: Are there challenges that have carried over,

8 now that all agencies are back to in-person work?

9 What recommendations has EEPC made to agencies to

10 handle these challenges?

11 MS. SHAW: Are we talking in the audit realm...

12 CHAIRPERSON WILLIAMS: Yeah.

13 MS. SHAW: ...I would imagine? The challenges

14 that we've been experiencing, now that we're back in

15 the office, is just kind of, I think, a continuation

16 of remembering that we're still in a pandemic and

17 that people are being affected on it by a personal

18 level. And the other challenge that we faced -- and

19 it has something to do with COVID, and also has to do

20 with the change in administration -- a lot of people

21 who are not in those roles during the period of time

22 that we're auditing are no longer there. So the

23 people who were talking to now we're not necessarily

24 around in 2020 when the decisions are being made to

25 do certain things.

2 So our recommendations are more tailored to the
3 programs to make sure that that continuity is
4 ensured, regardless of what's happening in the world
5 or what's happening in the agency itself in terms of
6 changes in... in leadership.

7 CHAIRPERSON WILLIAMS: Okay. I'll pause. Do you
8 have any questions Councilmembers?

9 COUNCILMEMBER RICHARDSON JORDAN: Well, I first I
10 first want to say, you know, Madam Chair to the
11 sidetrack that you kind of went on, I think it's... I
12 think it's still relevant, and maybe it's something
13 for... for either CCHR or even for us as a Council to
14 think about the classification of long COVID as a
15 disability, and what it would mean, in terms of
16 recognizing long COVID? Because I think that's... I
17 think that's... that's maybe the place where...
18 where we could address what's going on, I think some
19 of what we might be finding out is that, usually what
20 we're looking at is... is employers not doing
21 reasonable accommodation. And I think because COVID
22 was such a phenomenon, and it was seen -- you know,
23 like, so many things are not seen, right?, but COVID
24 was seen -- that I think they're actually... I don't
25 know. Maybe part... Maybe part of the story is that

2 there actually were accommodations made for COVID in
3 a way that isn't typically done, because most
4 disabilities are invisible, and they're... and
5 they're... and we're sort of battling against...
6 against getting them.

7 Anyway, that's also a tangent, but... but related
8 to our work. But I wanted to ask for EEPCC: I was
9 just curious, because I know there's an emphasis on
10 minorities and women, but is there also a tracking
11 around diversity for LGBTQIA? And do you have
12 numbers on that in terms of our agencies?

13 MS. SHAW: The... The data collection is driven
14 by DCAS, which sets the parameters for the citywide
15 policies. And I don't believe that they are tracking
16 LGBTQ. We do look in our audits for certain
17 trainings that are required. There is an... an LGBTQ
18 training that's now required of all city employees
19 every two years. So we've included that as a
20 mandatory requirement in our audits. But generally,
21 no, we have not kind of parsed down... I know when
22 we look at our employment reports in terms of
23 underutilization, it does not track. It tracks by
24 gender. It tracks by race and ethnicity, but it
25 doesn't track by sexual identity.

2 COUNCILMEMBER RICHARDSON JORDAN: That's good to
3 know. Thank you.

4 MS. KAMUF WARD: Um, just on the long COVID
5 point, and I think this is... you know, goes back to
6 the tracking question.

7 Because we look also like what the condition is
8 in the individual, and sometimes it's also underlying
9 conditions, or that medical impacts can rise to the
10 level of disability that requires an accommodation,
11 it's just not like, people are not requesting it
12 based necessarily on COVID. But the doctor will say
13 this is the limitations and the needs, because you
14 also don't need to necessarily disclose to your
15 employer what your personal medical diagnosis or
16 condition is. So that's what makes it like a bit of
17 a fuzzy line. But you know, we also... we... we
18 will go back on the COVID numbers, and I think we
19 will have stuff to share with you after the hearing.

20 COUNCILMEMBER JOSEPH: I just wanted to add on
21 something real quick. I think that data is going to
22 be very important in this and how you drive the
23 conversation, and even moving forward to drive policy
24 from this committee, data is going to be very
25 important as to where we are, how do we move forward,

2 and how we can help. So I think the data part
3 that... that Chair mentioned is going to be very
4 crucial in this.

5 COUNCILMEMBER WILLIAMS: Thank you. Always nice
6 to get backup from committee members.

7 Are there any challenges that have carried over
8 now... oh, I read that already.

9 Recent agency diversity plans indicate that some
10 efforts are delayed due to COVID-19. EEPD reviews
11 these plans? How has it responded to these delays?
12 What criteria are used to determine when these
13 efforts are to restart?

14 MS. SHAW: Again, this is an audit question. As
15 a Director of Compliance, I can best speak to these
16 things.

17 When we look at an agency's annual EEO plan, we
18 do not get into the weeds of it in terms of specifics
19 of whether or not they should or should not be doing
20 certain things. We do look at things such as
21 mandatory trainings, we want to make sure that that's
22 included, but whether or not they undertake certain
23 initiatives or strategies for say, recruitment or
24 retention or community outreach, we don't look into
25 those things. One, we don't have the resources.

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2 And, two, it's outside of our purview, because those
3 are operational decisions. I do know that the annual
4 reports are reviewed by the Department of citywide
5 administrative services prior to them being finalized
6 and approved by the agency heads. I don't know what
7 that review entails, but at the EEPC level, we
8 look more to see: Do you have a plan? Have you been
9 producing quarterly reports that are showing the
10 progress of your plan? Without necessarily getting
11 into the specifics of those plans? Because we simply
12 don't have the resources.

13 CHAIRPERSON WILLIAMS: How did EEPC conduct its
14 sexual harassment audit with workers in a remote
15 setting?

16 MS. SHAW: I'm sorry, can you repeat that?

17 CHAIRPERSON WILLIAMS: Yep. How did EEPC conduct
18 its sexual harassment audit with workers in a remote
19 setting?

20 MS. SHAW: As I said before, we had to kind of do
21 workarounds for technology. And we had to do
22 workarounds for just human beings. We really tried
23 to be more flexible. And a lot of times, people
24 didn't realize how dependent they were on hard
25 copies, because the city didn't have a remote policy

2 prior to the COVID. There wasn't the same kind of
3 need to have things in electronic format. And I
4 think a lot of agencies realize that we need to start
5 making sure everything is in some kind of scanned
6 format.

7 You know, we get complaint files, and they're
8 pretty voluminous, and they are sometimes only in
9 hardcopy. So when we were trying to assess those
10 kinds of things, we couldn't do it until we had
11 agencies... you know, people going back on their one
12 day in, and scanning a whole bunch of documents for
13 us. So we had to be a little bit more flexible in
14 our timelines like Jeanne said, and how we worked
15 with them, how we accepted information, and then in
16 the findings that we made, recognizing that there was
17 some things that we just, we couldn't get from them,
18 because they were working remote. And we do have a
19 charter mandate to audit every agency once every four
20 years. And we are audited by a comptroller to make
21 sure we meet that mandate. So we couldn't simply
22 pause all of the audits, we did the best we could to
23 make sure it was as complete as it would have been
24 prior to remote, based upon the... the kinds of
25 limitations that we had. But I think our agency got

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2 creative and really kind of thought outside the box,
3 and became much more like I said, a collaborator with
4 our agencies, versus the auditor type of, I guess,
5 like, separation.

6 CHAIRPERSON WILLIAMS: Yeah, and I know, this is
7 not the tech committee. But I'm interested because I
8 hear you say a lot about the challenges faced by not
9 being able to be on like a city server, whether it's
10 trainings or documents being available
11 electronically. So would you say you still have
12 those challenges? Or has the city itself... I don't
13 know, I guess you have... we have to work with DoITT?
14 Or do you work with DoITT? Or do you have a
15 separate...? No, you don't work with DoITT, but the
16 agencies have to work with DoITT to get their files
17 online. So I'm just trying to understand like, is it
18 still a challenge? Like, is that something that we
19 need to like further investigate as well? Or would
20 you say the city has sort of rised to the task of
21 like, technology? So folks are able to do whatever
22 trainings that they might not have been able to do
23 because they weren't on a particular server?

24 MS. SHAW: I can't... I can't speak for every
25 agency in the city. I can say that I think that the

2 agencies that we worked with did recognize the need
3 to have more electronic files and the need to have
4 access to certain things that were outside of the
5 city network. We have a proprietary compliance
6 monitoring system, and we realized that you can't
7 access it unless you're using the city network. So
8 that was a problem for us. So we've tried to work
9 with, you know, kind of retrofitting that and seeing
10 how we can modify that process. The other thing that
11 I have noticed, I think that in terms of the training
12 that has been kind of being rolled out across the
13 city. I think there have been changes made to make
14 it more accessible in terms of electronic or computer
15 based training, that nest may not have been in the
16 past. We have been finding that people are coming
17 back to the office, and they're getting a lot of the
18 training that they had missed, and it's not
19 necessarily through in-person training. But again, I
20 can't speak to policy.

21 CHAIRPERSON WILLIAMS: Yeah. You have made a
22 comment about having to... it was a question... I
23 think asked a question about adjusting, and you made
24 a comment about the server and how some things are
25 available, but you have to be in like a city system.

2 And so what... Do you have details? Like what were
3 those adjustments? Or is it specific trainings? And
4 then again... because I think your answer doesn't
5 feel conclusive. So like, is it... Can we say that
6 agencies have made the necessary adjustments in the
7 wake of remote work to comply with audits and/or your
8 recommendations? Or is there still gaps?

9 MS. SHAW: I'm not trying to be inconclusive or
10 evasive, but I think that the issue with the EEPC is
11 we don't have an opportunity to... Everyone's back in
12 the office. Everyone in the city, you know... City
13 workers are back in the office. So if they don't
14 have their files scanned, we don't know anymore. If
15 they are not necessarily being able to access certain
16 training, because they're not on a city network,
17 well, that's irrelevant now, because they are on city
18 networks. And we have no way of knowing. So for us,
19 we... we really can't speak to whether or not things
20 have... whether the city has risen. We... We can
21 speak to what our agency does, but in terms of the
22 other agencies that we audit, we really don't know
23 what's going on behind the scenes. All we know is
24 that, you know, they're providing us with documents
25 now. Does that means that their internal databases

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2 are now more compatible? I don't know. We can't
3 tell.

4 CHAIRPERSON WILLIAMS: So are you no longer
5 adjusting some of your recommendations because
6 everybody's back in person?

7 MS. VICTOR: Right... Right now, I don't believe
8 that there have been any complaints by the agency
9 saying that they can't comply, because they are back
10 in the office now. So I think that we're... we've
11 reached the point where there's... there's no longer
12 the issue that we had initially, during the initial
13 stages of the pandemic. We have moved forward, and
14 now that we're back in the office, they are
15 complying.

16 CHAIRPERSON WILLIAMS: So prior to COVID, how
17 would agencies submit... How do agencies submit
18 information to you? Because I know, you mentioned
19 the challenge was having documents needing to be
20 scanned and sent to you electronically? So how...
21 How do agencies typically give you information?

22 MS. SHAW: So prior to COVID, and during COVID,
23 we would put out what we call preliminary interview
24 questionnaires. And it would be a series of
25 questions asking about certain policy things, certain

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2 documents, certain... whether or not you have an EEO
3 officer, and then you would have to answer it through
4 this SurveyMonkey type of questionnaire, and provide
5 uploads of documents to support your responses. So
6 if we asked, you know, do you have a training
7 curriculum? We want to see the training curriculum,
8 for... for example. So now, we are still using the
9 same system. But again, we, when we were asking for
10 it, during COVID, people weren't necessarily able to
11 provide us with that uploads, because they didn't
12 have access to it, for whatever the reason may be
13 hardcopy outside the system, lack of technology,
14 bandwidth, I have no idea. Now that we are all back
15 in the office, like Jeanne said, we are not
16 experiencing that kind of difficulty... (crosstalk)

17 CHAIRPERSON WILLIAMS: Yeah, no. I know. I got
18 that point. Sorry to cut you off. I just was trying
19 to understand what you did before. What the
20 challenges, I guess, were during the height of COVID.
21 And then just trying to assess, because, who knows?
22 I mean, there might be another crazy variant, and
23 everyone has to go remote again. And if the agencies
24 technically don't have to have these files scanned
25 somewhere that they can readily send to you, you

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2 might incur the same challenge down the line. So I
3 was just trying to understand, like, what was the
4 process before COVID, just to get a fuller picture on
5 like, the challenges and possibly holding the
6 agencies more accountable to account for this new
7 trend. Because, I don't... I don't really think
8 remote things are going to ever go away anymore. I
9 think it makes sense to have things electronically if
10 we can. So I was just wondering. And the... the
11 system... the proprietary system, you mentioned, have
12 you been able to modernize the system?

13 MS. SHAW: Um, we've actually kind of done like a
14 workaround in that we asked agencies to go into the
15 system when they are in the office. Now that they're
16 in the office, and we haven't really been using it
17 recently because we're not in that stage of the
18 audits, which is the compliance stage was at the end.
19 We're still in the beginning parts of the audits that
20 we're conducting. But no, we really have not been
21 able to figure out a way that we can electronically
22 allow access to the system outside of the city
23 network.

24 CHAIRPERSON WILLIAMS: Okay. And the final
25 question I have is: Did you see -- this back to

2 sexual harassment -- Did you see any changes from the
3 first sexual harassment audit conducted in 2020 to
4 the recent one.

5 CHAIR SHAW: So, the sexual harassment practices
6 audit was commenced in 2018. And it was on a four-
7 year cycle. So we the last year of the cycle was
8 2021. And I think what we have noticed, we did
9 notice in the latter years was more complaint file
10 maintenance being more uniform, and definitely
11 training. There was... The laws that were passed in
12 2018, that required mandatory training for every
13 employee every year. And so we began to track that
14 during the latter parts of the audit cycle that we
15 were reviewing those trainings, and the emphasis
16 became much more apparent that that is something that
17 is in the forefront of EEO programs.

18 COUNCILMEMBER JOSEPH: I have a quick question.
19 I'm going to go back for a second. I remember doing
20 COVID... in the middle of COVID, I was still
21 teaching. I wasn't even... I wasn't even in the
22 Council yet. The biggest challenge we had was
23 technology. There's a divide across the city. Are
24 staff being trained now, so if we ever need to go
25 down to a full shutdown, is your office prepared to

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2 move remotely? 100%? Is the staff updated? Is the
3 equipment updated? Is your server, do you have a
4 bandwidth that's wide enough to support the kind of
5 work that you're doing?

6 MS. SHAW: Are you are you talking for us, the
7 EEPC, our own agency? Own agents, right?

8 COUNCILMEMBER JOSEPH: Mm-hmm. Right. As you're
9 taking complaints, you're supposed to have a system
10 that supports those things, right? What... How does
11 your staff intake info?

12 MS. SHAW: Well, we don't intake complaints. We
13 just do the historical audits. We've relied a lot on
14 people using their own personal equipment, because we
15 didn't have the resources to provide laptops and
16 printers, and everything to our employees. We are
17 still in that same spot, in terms of lack of
18 resources. I think Jeanne can speak better to that
19 in terms of budget. But if we had to do a full
20 shutdown, again, we would be reliant upon our
21 employees using their own equipment, their own
22 telephones, their own internet access their own
23 electricity, because we can't reimburse them. And we
24 don't have the resources to provide every employee
25 with a laptop and a printer, and a cell phone, and

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2 even a license to use Teams. That's why we used
3 WebEx instead of Teams, because we didn't have enough
4 licenses.

5 COUNCILMEMBER JOSEPH: We're in trouble in New
6 York City?

7 MS. SHAW: I'm sorry?

8 COUNCILMEMBER JOSEPH: We're in trouble then.
9 Well how does... Is the staff penalized if they did
10 not have equipment? I came across staff that went
11 remote and did not have laptops.

12 MS. SHAW: We had a limited number of laptops
13 that we were able to provide to staff who did not, or
14 had connectivity issues. But if every single one of
15 our staff members needed a laptop, I don't know how
16 we would have gotten our work done.

17 Again, like I said, we had a couple but we and we
18 were luckily able to have most of our staff have the
19 equipment that they needed to have on hand. But if
20 they didn't, and we had exceeded the number of
21 requests of the laptops, then I really don't know how
22 we would have proceeded at that point.

23 COUNCILMEMBER JOSEPH: And I believe that also
24 goes for Wi-... hotspots as well. Thank you.

25

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2 CHAIRPERSON WILLIAMS: Well, thank you. And I
3 don't think I need to say this. But I think all of
4 us here appreciate the work of CCHR. We want to see
5 you have all of the money, all of the Independence.
6 And the same thing goes for EEPIC. The work that you
7 do is so incredibly important to this Council. So
8 all of our questions are always in terms of what can
9 we do better as legislators. So I just wanted to say
10 that like these questions are really just to like
11 further support the work that you're doing and like
12 strengthen our city. So I appreciate you for coming
13 today and for fielding our questions.

14 COMMITTEE COUNSEL: Thank you. We will next...
15 We'll call the next panel which is public member,
16 Megan Rachlin. You can go ahead when this sergeants
17 call time.

18 SERGEANT AT ARMS: Starting time.

19 MS. RACKIN: Thank you. Thank you to Chair
20 Williams and to the members of the Committee for
21 Civil and Human Rights for the opportunity to testify
22 today. My name is Meghan Rackin, and I'm a staff
23 attorney at A Better Balance, a legal nonprofit
24 headquartered in New York City. A Better Balance was
25 founded with the goal of ensuring that all workers

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2 have the ability to care for themselves and their
3 families without compromising their economic
4 security, and we were proud to have drafted and
5 shepherded the passage legislation including the 2014
6 New York City Pregnant Workers Fairness Act, and the
7 New York City Earned Safe and Sick Time Act.

8 Our recent report co-authored with the Community
9 Service Society titled Women in the Workforce
10 Advancing of Justice Recovery in New York City
11 provides new data from CSS's unheard third survey,
12 demonstrating that more than a third of women
13 reported that they had experienced temporary or
14 permanent job loss in their household since the start
15 of the pandemic. Now, as workers continue to face
16 pandemic era workplace challenges, New York must find
17 solutions that work for all workers for balancing the
18 competing demands of work and care. Specifically,
19 New York City must expand outreach education and
20 enforcement. Our report clearly indicates that low
21 income working women are not aware of and have not
22 been able to fully access their rights. For
23 instance, nearly 6 in 10 Women who are covered by the
24 Earned Safe and Safe Time Act had heard little to
25 nothing about the law, and 53% of low income workers

2 who needed to stop working during the pandemic cited
3 health or disability as one of the reasons.

4 This suggests that workers are not adequately
5 informed about their rights to paid family leave paid
6 sick time, anti-discrimination protections for
7 caregivers, and reasonable accommodations for
8 disability or pregnancy. The Commission on Human
9 Rights must immediately prioritize outreach and
10 education to ensure that workers are informed about
11 their rights and must collaborate with other city
12 agencies, state agencies, and community partners to
13 ensure that New York workers understand the full
14 range of protections that are available to them under
15 city state and federal law. At the same time, the
16 commission should prioritize strong proactive
17 enforcement of existing workplace rights including by
18 paying careful attention to the employers, especially
19 large companies, who use overly rigid punitive, so-
20 called, no fault attendance policies to penalize
21 workers for absences that should be considered
22 reasonable accommodations.

23 Second, ensure that caregivers are not
24 discriminated against in the workplace. Our joint
25 report with CSS makes the pandemics particularly

2 pernicious effects on caregivers incredibly vivid,
3 showing that mothers and fathers were forced to stop
4 working due to childcare responsibilities in enormous
5 numbers. Solutions to the employment crisis facing
6 parents and other caregivers as the pandemic
7 continues and after must account for family
8 caregiving needs. The city's human rights law has
9 strong antidiscrimination...

10 CHAIRPERSON WILLIAMS: Meghan, you can slow down
11 girl. I mean, not going to stop you. You can keep
12 going. You can slow down. We can extend your time.
13 You're the only person testifying because I actually
14 really want to hear what you said. Because the
15 agencies didn't have much, so if you're talking about
16 issues. Slow down, we want to hear you. Take your
17 time.

18 MS. RACKING: Great. Thank you. I appreciate
19 it.

20 We would say that the city's human rights laws'
21 strong existing antidiscrimination protection for
22 caregivers must be strongly enforced. And we would
23 also suggest that the City Council consider
24 legislation to expressly provide caregivers with a
25 limited right to reasonable accommodations, absent

2 undue hardship to their employers, and protection
3 from retaliation for requesting accommodations based
4 on their caregiving status.

5 Third, protects the rights of app-based gig
6 workers. In a really striking finding, our report
7 demonstrated that across all income levels
8 participation in app based gig work increased likely
9 due to widespread job loss and childcare concerns.
10 With the rise in app-based gig work, many workers
11 face difficulty accessing the workplace rights and
12 protections they need. We know that mis-
13 classification is often used to skirt many of the
14 protections afforded to traditional employees for app
15 based gig workers. But we also know that independent
16 contractors have brought antidiscrimination
17 protections under the city's human rights law. So we
18 suggest that the Commission on Human Rights
19 proactively enforced those protections to ensure that
20 gig workers are able to work free from discrimination
21 and access the pregnancy and disability
22 accommodations that they may need regardless of
23 whether or not they're misclassified.

24 And fourth, leading the way as a model employer.
25 In this really turbulent time for workers and

2 businesses, the city government is uniquely
3 positioned to lead by example. City workers are not
4 covered by many important worker protective laws, and
5 the city has not really stepped up to provide the
6 municipal workforce with comparably protected
7 policies. Recently, for example, the city's overly
8 rigid and confusing return-to-office policy has
9 fallen short of the goal of serving as a model
10 employer, and we'd suggest that the city serve as a
11 model employer by revising its return to office
12 policy to meet the needs of workers with health
13 concerns or caregiving responsibilities, and by
14 ensuring that all city employees have access to paid
15 family and medical leave and reasonable caregiving
16 accommodations. Thank you.

17 CHAIRPERSON WILLIAMS: Thank you. Do you have
18 that written or report of the recommendations that
19 you can send to us?

20 MS. RACKIN: Yes, absolutely. I will submit my
21 written testimony which will link to our longer joint
22 report with CSS that lays out both these and other
23 recommendations as well as supporting data.

24 CHAIRPERSON WILLIAMS: Okay, um, so... actually,
25 you said everything Have you if you send us that,

2 that would be great. I don't know if you all have
3 any reports on like responsiveness of CCHR
4 complaints. I know you mentioned a few things in
5 regards to that. Or any additional guidance that
6 your organization would like to see from CCHR?

7 MS. RACKIN: We have had great experiences, I
8 think, working with the Commission on Human Rights
9 and are excited to continue to work with them on a
10 number of issues.

11 One recommendation that we have that I don't
12 believe I mentioned in my remarks just now, but it is
13 included in my written testimony is we think it would
14 be great to develop a process for fast-tracking
15 complaints, specifically related to denials of
16 reasonable accommodations for pregnancy, because
17 those complaints are, by their nature, so time
18 sensitive. And we'd love to... to work with CCHR on
19 developing a process for having those complaints
20 resolved in a really timely... timely way.

21 CHAIRPERSON WILLIAMS: Okay. And I don't know if
22 you have any recommendations or guidance for
23 employees see, seeking... seeing now that in-office
24 work is resuming. I don't know if you've been seeing

2 any trends, or if you have anything to add in terms
3 of workers going back in person.

4 MS. RACKIN: Certainly. I think we know that...
5 Like, we can see from the data that we have put forth
6 in our joint report with the Community Service
7 Society, that flexibility was really key for the
8 workers to whom remote work was available during the
9 pandemic. We do want to recognize that many workers
10 have been working in person throughout the pandemic,
11 and they need flexibility as well. And solutions
12 needed to take both of those groups of workers in
13 mind. I think there's a lot to be learned from this
14 pandemic. As challenging as it was, it also
15 provided, in many ways, an often successful
16 experiment in remote work for a lot of workers for
17 whom remote work is a possibility. And we'd love to
18 see the city government think about maybe convening a
19 task force of workers, businesses, and advocates that
20 can come together to reflect on some of the lessons
21 learned in the pandemic and think about how to... how
22 to integrate those into the, at this point in time,
23 the ongoing pandemic workforce but also how we can
24 move forward at the eventual end of the pandemic
25 to... to incorporate some of those lessons into how

2 we think about flexibility for workers, especially
3 workers with health or caregiving needs, to make the
4 workforce and more.. more just equitable place for
5 all workers going forward.

6 CHAIRPERSON WILLIAMS: Okay, yes. Please send us
7 your written testimony, your report, and any
8 recommendations you have. Colleagues, you have a
9 question? Councilmember Richardson Jordan?

10 COUNCILMEMBER RICHARDSON JORDAN: Yes. Thank you
11 for the testimony. So I did want to ask, in terms of
12 what you were referencing about low-income women and
13 not knowing or having access to their rights.
14 What... What would you say is... is the number one
15 fix to that? Is that... is that anything we can do
16 legislatively? Or would you say that's more budget
17 and outreach to support, you know, the... the CBOs
18 that would get the word out?

19 MS. RACKIN: Absolutely. I think... I think
20 both are key pieces. I think outreach and education
21 is a huge piece of this. And we know that the
22 Commission on Human Rights does great work there as
23 do many other agencies. And we just think more is
24 needed to make sure that all workers are really well
25 informed of the full scope of their rights. We're

2 especially interested in thinking about ways for city
3 agencies to work together, and to work with their
4 counterparts at the state level and with community
5 advocates to make sure that workers are aware of all
6 of their rights. There are so many really wonderful
7 and strong laws in New York City. But there are also
8 important protections that workers have at the state
9 and the federal level. For instance, paid family
10 leave is a crucial protection for so many New York
11 workers, and that's a state level of protection. So
12 it's really important to integrate that kind of
13 outreach and education to make sure that workers are
14 getting information about all of the rights that they
15 might need to know about. For instance, if a worker
16 in the city is pregnant and needs information about
17 their rights at work while they're pregnant, it would
18 be great if, at that same time, they can also get
19 information about paid family leave, so they know
20 about their right, for instance, to take time off of
21 work and receive financial support while they're
22 bonding with a new baby.

23 So thinking about ways to integrate those
24 processes more so... so that all workers can get this
25 information, and that they can get all of the

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2 information they need we think is really crucial. We
3 do also think there's room to think about what might
4 be done to update and expand notice requirements in
5 in some of the city laws, especially in the pandemic
6 workforce and thinking about changes to the workforce
7 that are likely to be with us for some time, making
8 sure that workers have access to all of that
9 information in digital form, and making sure that
10 they're able to access all of that information that
11 they're that they have... that employers have no
12 obligations to provide to them, making sure that they
13 can access that information both in and out of the
14 workplace, so that they can review it when it's
15 convenient for them.

16 COUNCILMEMBER RICHARDSON JORDAN: Yeah, that's...
17 that sounds good. Especially I made a note about the
18 notice requirements. Maybe that's a space we can
19 help facilitate. I wanted to ask also with gig
20 workers. Just in your... in your experience or
21 observation, is there anyone who's doing that well?
22 That outreach to gig workers' work?

23 MS. RACKIN: There are certainly groups that are
24 working to expand the rights of gig workers. We...
25 We work with a number of partners who do a lot of

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2 work in that space. I can try to think a little bit
3 about more, who might be the right folks to direct
4 you towards. But there's definitely folks doing
5 that work really well. Yeah. I'd have to give it a
6 little bit more thought to give you specific.

7 COUNCILMEMBER RICHARDSON JORDAN: That's fine. I
8 was just curious around that. Thank you.

9 CHAIRPERSON WILLIAMS: I think that's it. Thank
10 you so much, Meghan. We look forward to getting your
11 testimony and whatever else you want to give to us to
12 strengthen the laws that we have...

13 MS. RACKIN: Thank you so much for your time.

14 CHAIRPERSON WILLIAMS: And maybe add some new
15 ones. All right.

16 COMMITTEE COUNSEL: Thank you Meghan. If there's
17 anyone that would like to testify and has not been
18 called, please make sure to submit your name to the
19 Sergeant at Arms and we will call you.

20 We'll now call Mary Moss up to testify. You can
21 go ahead whatever you're ready.

22 MS MOSS: Hello, my name is Mary Moss. I had not
23 intended to... I intended to just attend this hearing
24 today, but I do have some words that I would love to

25

2 ask for each of you to consider and to put in place
3 of... and turn into legislation.

4 Over 10 million women and men in the United
5 States of America are impacted by domestic violence,
6 more than one in three women in more than one to nine
7 men in the updated data and statistics in the United
8 States will experience physical violence and/or
9 stalking by an intimate partner in their lifetime.

10 These statistics are increased in urban
11 communities where stress is greatly impacted by many
12 factors and reverberations are spread throughout the
13 community. In Harlem and throughout New York City,
14 these statistics are exasperated and lead to
15 devastating violence during the pandemic, especially
16 for women and children. Complications of abuse lead
17 to greater disparities and send residuals throughout
18 the community because it affects the children who are
19 our future, and society when the proper supports are
20 not provided to those who need them as soon as
21 necessary.

22 During Women's History Month 2021 provisions were
23 made in the Violence Against Women Act, VAWA, and
24 they added specific services to support many aspects
25 of the original legislation which is which was

2 included increased dollars for cultural specific
3 programs, justice focuses on victims' autonomy,
4 agency, and safety, including restorative justice
5 practices, expanding access to VAWA-funded legal
6 services for survivors, housing protections that
7 allowed survivors in federally assisted housing to
8 relocate to new safe housing with victim relocation
9 vouchers, restoration of tribal jurisdiction that
10 allowed tribes to hold non-native perpetrators of
11 sexual assault, stalking, child abuse, elder abuse,
12 assault against law enforcement officers, and
13 trafficking accountable when they commit crimes on
14 native lands, investment in prevention via the Rape
15 Prevention and Education Program in VAWA, Department
16 of Justice programs, closure of dangerous legal
17 loopholes, and existing Federal Domestic Violence
18 Firearm laws that helps reduce domestic violence and
19 dating violence homicides, and economic justice
20 responses that help survivors access unemployment
21 insurance, and to help clarify what constitutes
22 economic abuse. And it goes on.

23 But here are some additional recommendations that
24 our city can really focus on in order to make sure
25 that this federal law is strengthened or that the

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2 federal law strengthen the local and state laws for
3 the prevention of violence and how it affects the
4 lives of those within our city.

5 Number one, schools are often the first place
6 frequented by families in need. All of our children
7 go... mostly go to school, and there is a need to
8 support families properly and holistic ways,
9 especially in sensitive matters like abuse that
10 affect their lives. To ensure that these... that
11 matters are properly managed, training for
12 principals, administration, and staff to have the
13 know-how to be supportive in matters of familiar
14 duress, especially in situations of abuse is
15 necessary to help eradicate any further complicated
16 matters. Parent coordinators, social workers, and
17 other administrators must demonstrate the sensitivity
18 and compassion needed to assist these matters, and
19 should be able to deescalate situations, to provide
20 workers financial supports as needed, without
21 encouraging parental alienation which is prevalent in
22 our schools right now.

23 Survivors of abuse with personal... with children
24 need to resort to a normal life for the sake of their
25 children, and to minimize trauma in a personal

2 crisis. This means normal parental activities are
3 needed and information about children's grades,
4 access to their teachers, blue card sign offs,
5 parents who are dealing with abuse should not be
6 excluded from who gets to sign on to pick up their
7 children, and they should have knowledge of who is
8 picking up their children, and they should have a say
9 and who picks up their children, and other
10 information should not be withheld from parents in
11 matters of domestic violence.

12 Domestic violence survivors experiencing the
13 personal trauma of their circumstances by having
14 their basic parental rights infringed upon causes
15 greater hindrances and trauma to the victim/survivor
16 and their children alike. Interaction should not be
17 limited because someone is a victim slash survivor of
18 abuse. Parental interruptions or restraints should
19 not cause undue harm to their children. Parents
20 rights should still be honored especially in matters
21 of abuse. We shouldn't victimize survivors or cause
22 further harm. School administrators should not
23 impair or cause further damages to an already
24 stressful and devastating situation in a person's
25

2 life who is dealing with a crisis affecting their
3 family.

4 Number two, although ACS, the Administration for
5 Children's Services, is usually involved in family
6 crisis matters, there are several gaps in services
7 across agency interactions that must be appropriately
8 supported to bring about justice and minimize the
9 harm done to families involved. Statistics show that
10 9 in 10 cases of domestic violence unjustly violate
11 those rights and cause separation of mothers from
12 children while rewarding abusive partners with
13 children and child support, therefore penalizing the
14 victim further with financial abuse and the traumatic
15 separation of their children. This has to be
16 corrected. The trauma to children is increased
17 because they are subjected to further abuse and are
18 made to normalize the trauma cost to them and others
19 in their presence. Based on the decisions of judges
20 influenced by ACS and others, children caught in the
21 middle of domestic violence matters are forced to
22 live with a parent that has been rewarded for causing
23 abuse, instead of being provided with protection from
24 harm by the parents whose rights were infringed upon
25 in the first place. These are known issues to

2 several human rights organizations throughout the
3 city, state, and nation, and the world. If all court
4 sessions are made public, or at least recorded for
5 review, these rights and laws cannot be easily
6 violated. It is essential that through interagency
7 vetting before hiring into positions of sensitive
8 matters, such as this, and training for all public
9 facing and public funding organizations dealing with
10 matters of abuse are conducted through DCAS or other
11 supportive professional training resources. All
12 Employees need specialized training in handling the
13 sensitive matters of abuse, and how each person
14 involved in the matter is dealing with the stressors
15 that are affecting them individually. Intervention
16 should not cause further trauma or escalate
17 situations to greater levels. Also, there is a need
18 to understand the protected rights of citizens and
19 dealing with the implications of any crisis. We need
20 compassionate workers who understand the populations
21 they are working with, and are willing to assist with
22 the best way, best practice measures to resolve the
23 obstacles and complications as they occur. Proactive
24 actions can also prevent some occurrences from

2 escalating or developing into more dangerous
3 situations.

4 Three when speaking of mass incarceration, men
5 are usually the main subject by default. However,
6 statistics show that 86% of women in jail are sexual
7 violence and abuse survivors. And this is from
8 Salon, Rachel Lee, published on November 11, 2017.
9 Blaming victim survivors for reporting abuse when
10 they needed intervention is a critical fallacy that
11 causes greater damages to the life of the victim and
12 those depending on them. Unfortunately, in some
13 cases, those who are supposed to protect and serve
14 have wrongfully arrested victim survivors in need of
15 supportive actions and intervention and failed to
16 help provide them with those safety measures they
17 required causing greater long term damages. It is
18 essential to accurately decipher the proper actions
19 to ensure protection to remedy a crisis of abuse.
20 Sometimes mental health issues are used as terms to
21 describe victims of abuse, to perpetuate stigmas, to
22 keep them from being helped. This provides an
23 opportunity for those in leadership crisis matters to
24 delineate between someone reacting to abuse versus
25 someone using gaslighting measures to perpetuate a

2 reaction and causing greater harm instead of
3 providing the necessary appropriate solutions to the
4 situation. It is called throwing a rock and hiding
5 your hand. Furthermore, there is a need to eradicate
6 the mental health stigmas that can often be used to
7 isolate victims and cause them to be separated
8 unjustly from their children, their children and
9 families, or jailed for reporting abuse.
10 Alternatives to this are specialized domestic
11 violence training on how to aid a family in need of
12 support, and accurately ascertain a victim survivor
13 from a perpetrator. Domestic violence trained
14 officers also must be equipped with the resources to
15 share that with victims, including... to share with
16 victims immediate resources or immediate local
17 support services that they can triage the emergency
18 effectively and quickly. For domestic violence can
19 happen at any hour of the day, a 24 hour Family
20 Justice Center one stop shop with supportive services
21 for victims of violence, located uptown and even in
22 Harlem can provide immediate services to women who
23 are dealing with violence and needs to be safely
24 secured away from their abusers, with opportunities
25 for immediate support and proper assistance. There

2 should be across communication with district
3 attorneys across our five boroughs. It shouldn't be
4 just you know, one, you know, isolated issue that
5 they can all talk amongst, with each other,
6 throughout the five boroughs for immediate support
7 and protection provided to victims.

8 And lastly, during the pandemic, there were many
9 legislative and policy reforms regarding the court
10 system over the pandemic which made the interface and
11 functionality more technically supportive for victims
12 survivors to gain the support they needed as far as
13 successful navigation of court procedures, like they
14 could upload documents online, or they could write
15 their own petitions. However, if they did not have
16 the technical tools, phone, or computer resources,
17 they were at a disadvantage. Often decisions were
18 made without the full knowledge of the processes if
19 they had the technical tools, and often they were
20 left out of the process. Clerks of the court need to
21 accurately and appropriately assign cases to the
22 proper court and jurisdiction. Any abuse related
23 cases need to be referred to IDV court.

24 There is a greater need for ethical oversight for
25 jurisprudence on all cases involving abuse. For

2 example, all family court sessions since COVID-19
3 have been video recorded due to Zoom sessions taking
4 place. These Zoom sessions should be made publicly
5 accessible for greater transparency and to ensure
6 that city, state, and federal judges are adhering to
7 ensure constitutional, civic, human, and parental
8 rights are not violated for greater accountability,
9 an amicus curiae, friend of the court briefs,
10 precision policing reports, and accurate data and
11 evidence that can help accelerate and assist with the
12 decisions of judges properly, so that judges can
13 understand situations more clearly and effectively
14 for the lawful outcomes that protect and support the
15 needs of victims, survivors of abuse.

16 And I just want to add one final, final thing,
17 which is there was a... I attended a vigil in the
18 Bronx where a police officer had lost her life due to
19 domestic violence. There has to be a way in our
20 unions or within the agencies, that people do not
21 feel that they don't have the protections of where
22 they work, to get the support that they need to be
23 safe, and to save their lives. And that is all I
24 wanted to share.

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2 CHAIRPERSON WILLIAMS: Thank you so much for your
3 testimony. And I also encourage you to submit it.
4 I'm sure Councilmembers would like to review it. And
5 I don't know if you have any questions. xxx

6 COUNCILMEMBER RICHARDSON JORDAN: Yeah. Well, so
7 first, I'll say thank you for the testimony. Marnie
8 is actually a fellow Harlemit. So... But I... I
9 also want to say that, I think what you touched on,
10 even though it might not seem directly related to two
11 issues of employment is related. And it did... and
12 it did pull up stuff for me personally, because I'm a
13 survivor of domestic violence, and I was wrongly
14 arrested. And so when you speak about survivors and
15 having the victim survivor wrongly arrested, and then
16 the mental health effects, that's something that I
17 have lived. You know, the record was cleared, but
18 the... the mental and emotional health effects are
19 something we work through. And... and it definitely
20 affected my work performance. And I think what we do
21 in terms of employers and employment and how we have
22 protections for those who are survivors, is
23 important.

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2 So I appreciate you bringing it up, and I'm
3 definitely flagging it as something that I would like
4 to advocate around.

5 MS. MOSS: Thank you.

6 CHAIRPERSON WILLIAMS: Thank you for your
7 testimony. And with that, I'm closing out my first
8 in person hearing.

9 [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date July 30, 2022