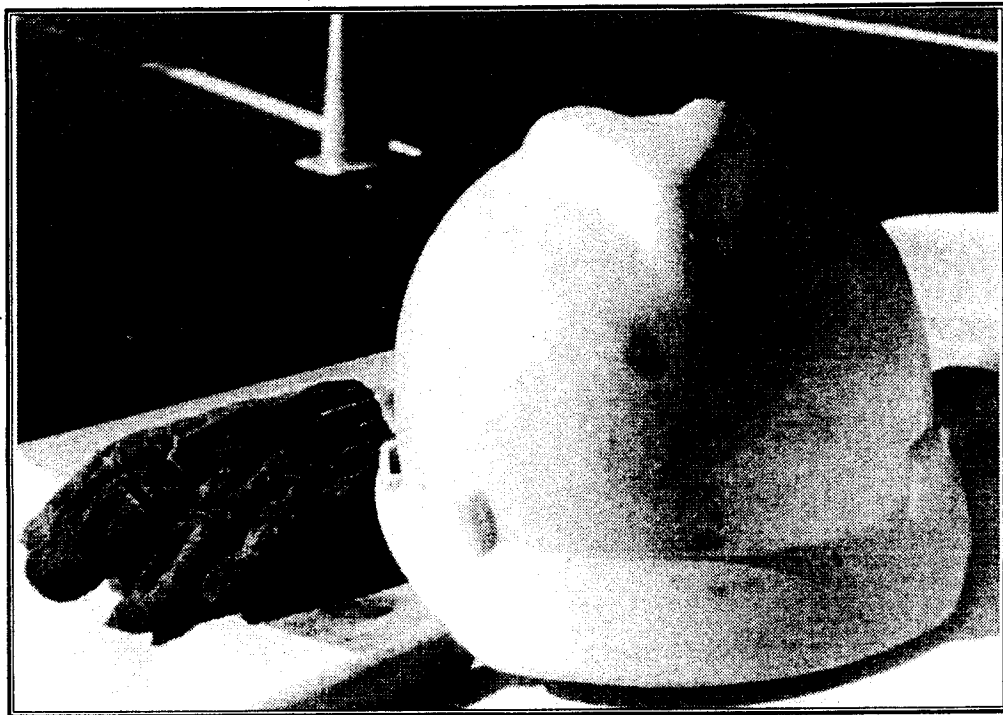


# BUILDING BARRIERS

EXECUTIVE SUMMARY

---

## Discrimination in New York City's Construction Trades



A Report By  
The New York City Commission on Human Rights

David N. Dinkins, Mayor

Dennis deLeon, Commissioner/Chair.

December 1993

---

# **BUILDING BARRIERS**



A Report on  
Discrimination Against  
Women and People of Color  
in New York City's  
Construction Trades

---

Executive Summary

**David N. Dinkins**

**Mayor**

**Dennis deLeon**

**Commissioner/Chair.**

**© 1993**



COMMISSION ON HUMAN RIGHTS

40 RECTOR STREET, NEW YORK, NY 10006

Telephone: (212) 306-7560 TDD (212) 306-7686 Fax (212) 306-7658

DENNIS DELEON, *Commissioner Chair*

December 20, 1993

Honorable David N. Dinkins  
Mayor  
City Hall  
New York, New York 10007

Dear Mayor:

By this letter we forward "Building Barriers: Discrimination in New York City's Construction Trades."

In this Report, the Commission on Human Rights returns to a critical area of human rights abuse in New York City—race, ethnic, and gender discrimination and harassment in New York City's construction industry. The construction industry offers a textbook study of the pattern, practice and impact of institutionalized exclusion. It is a story of the failure of business, union and political leadership to ensure equal employment opportunity in an industry that could provide meaningful career and financial opportunities for many disadvantaged New Yorkers. This story was told by the Commission on Human Rights in 1963 and again in 1967, and has been supported in subsequent hearings and reports by other governmental and private civil rights agencies.

One might ask why the Commission on Human Rights, an agency with extremely limited resources, has chosen once again to examine employment discrimination in the City's construction industry.

An illustration of why the Commission has reopened the issue of discrimination in New York City's construction trades was provided when David Letterman brought on stage all the workers who had participated in the reconstruction of the Ed Sullivan Theater, where his CBS show debuted. A virtually all-white and all-male crew took deserved

Honorable David M. Dinkins

December 20, 1993

Page Two

cheers for the incredibly quick and professional rehabilitation of the theater, while graphically depicting the utter failure of the City's construction industry and relevant unions to include all New Yorkers in that moment of glory and home-grown pride. The racial and sexual profile seen on the screen that night is one that is seen on construction project after construction project throughout New York City.

A further reason for renewed attention to construction industry discrimination is that the minimal but noticeable progress experienced by women and people of color who sought entry into this high-paying field during the past two decades has stalled. Even in the booming economy of the 1980s, women, African-Americans, Latinos, and Asian-Americans were kept at the margins of the growth within the industry. Further, reports of sexual harassment and other obstacles encountered by women seeking employment in construction have increased over the years, while many government-funded programs designed to assist women who enter this male-dominated work environment have ceased to exist.

Another concern of the Human Rights Commissioners, which led in part to the hearings and this Report, is the growth of so-called "minority coalitions." These are organizations with the ostensible goal of promoting the hiring of people of color in the construction industry. But the objective of many of these coalitions is anything but obtaining equal employment. Many engage in violent disruptions of work sites to extort money and paychecks for no-show workers. They undermine the efforts of legitimate groups like FightBack and United Third Bridge, Inc., who are indeed seeking to open the trades to people of color. As reprehensible as the criminal behavior of these coalitions is, it is a by-product of the institutional failure of government and private industry to address the longstanding problem of discrimination.

Given these concerns, in 1990 the Commission initiated a formal investigation into the systemic exclusion of African-American, Latino, Asian-American and female workers from many union locals, apprenticeship programs and unionized work sites. Key to the

Honorable David M. Dinkins

December 20, 1993

Page Three

investigation were a series of 14 hearings that began in March, 1990 and continued through November, 1992. The hearings produced testimony from workers, union and contractor representatives, workers' advocates, and public officials regarding the extent of discrimination in the skilled construction trades. More than 80 workers testified, representing more than a dozen trades. The picture which emerged from the hearings is very disturbing.

Women and people of color testified that their attempts to obtain apprenticeships and find work were thwarted by unions and contractors alike. They complained that when working, they face negative conditions to which white males are not subject. Statistics gathered for this Report reflect, in many cases, a failure by unions to recruit and retain these groups, although in a few instances some forward movement has been seen. Finally, due to a lack of resources and/or political will, government agencies have neither enforced compliance with affirmative action goals nor pursued more progressive or creative remedies.

If the recommendations made in this Report are implemented, we are confident that opportunities for women and people of color in the construction trades will expand. While the Commission's proposals provide no panacea or quick fix, they will move the industry to once again begin to come to grips with the need for change. Implementing the recommendations over the next few years will require real political courage. With the building industry expected to remain depressed until the late 1990s, government and industry leaders will face the difficult challenge of fostering greater inclusion in a time of high unemployment. And if increased opportunities for people of color and women are seen as coming at the expense of white males, efforts at reform will meet great resistance. Government, private industry and labor leaders must form innovative partnerships if New York City is to realize a truly diverse workforce in the twenty-first century.

Honorable David M. Dinkins

December 20, 1993

Page Four

We want to express our deep sense of gratitude for the support and encouragement you have shown the Commission over the past four years. Your leadership has enabled us to bring a new sense of hope and creativity to the agency. Your understanding of the importance of the New York City Human Rights Law and the necessity for the Commission's vigorous law enforcement efforts has been critical to this transformation.

We look forward to meeting with you, or with whomever you designate, to discuss implementation of the Report's recommendations.

With respect and gratitude,

A handwritten signature in black ink, appearing to read 'DeLeon', with a stylized, flowing script.

Dennis deLeon, Chair

Harilyn Rousso, Co-Vice-Chair

Edward Mapp, Co-Vice-Chair

Rabbi Balfour Brickner

Rabbi Jacob Bronner

George Daniels

Edward Ma

Burt Neuborne

Rev. Charles Norris

Ilka Tanya Payan

Msgr. John Servodidio

Vivian H. Shapiro

G. Jack Spatola

---

**DAVID N. DINKINS, MAYOR**  
**DENNIS DELEON, COMMISSIONER/CHAIR**

---

**Human Rights Commissioners**

Rabbi Balfour Brickner	Rev. Charles Norris
Rabbi Jacob Bronner	Ilka Tanya Payan
George Daniels	Harilyn Rousso, Co-Vice-Chair
Edward Ma	Msgr. John Servodidio
Edward Mapp, Co-Vice-Chair	Vivian H. Shapiro
Burt Neuborne	G. Jack Spatola

**Public Hearings Coordinators**

**New York City Commission on Human Rights**

Russell Pearce, former General Counsel, and staff; Peggy Crull, Director of Research, Community Relations Bureau, and staff; Cheryl Howard, General Counsel, and staff; Rolando Acosta, former Deputy Commissioner for Law Enforcement, and staff.

**New York City Division of Labor Services**

Oliver Gray, former Director; Sheila Abdus Salaam, former General Counsel, and staff; Olivia Peck, former Director of the Construction Division, and staff; Debra Jackson, former General Counsel, and staff.

Workers from every part of the City Commission on Human Rights and Division of Labor Services devoted their time and energy to staffing each aspect of the public hearings.

**Report staff**

**Project Director**

Peggy Crull, Director of Research  
Community Relations Bureau

**Principal Writer/Researcher**

Steve Herrick, Research Associate

**Assistant Writer/Researcher**

Dick Conette, Research Assistant

**Editor/Graphic Designer**

Keith O'Connor, Publications Director

---

**Consultant:** James McNamara, NYC Department of Employment

**Cover photo:** Tom Hctor, NYC Department of Transportation

- Rosemarie Maldonado, Chief Administrative Law Judge, is the principal author of Appendix C, the Commission's Sexual Harassment Guidelines.
- Research for the original draft of Chapter 1 was performed by Jennifer Latifah Johnson, then supervisor of the Construction Investigation Unit at the Commission. Ms. Johnson also wrote the first draft of the chapter.
- Many staff members of the Commission on Human Rights and the Division of Labor Services contributed to the creation of this report through the early gathering of research materials and the summarization of hearings transcripts.

### **Acknowledgements**

Many individuals helped organize the series of public hearings, and assisted in the gathering of materials which provide the basis for this report. They include representatives of women's organizations, coalitions, and workers' associations which advocate on behalf of African-Americans, Latinos, Asian-Americans and Native Americans, as well as legal experts and labor historians who have helped to place the issues in context.

Especially instrumental in bringing about the hearings and gathering testimony and information were:

United Third Bridge, Inc.  
Harlem FightBack  
NOW Legal Defense and Education Fund  
Women's Project of the Association for Union Democracy  
Nontraditional Employment for Women  
Women in Construction, and  
Women in the Trades.

The Commission also recognizes the contributions of the many individuals who work in the construction industry and testified at the public hearings, despite the possibility that their appearance might lead to retaliation. Except for those who testified anonymously, the names and organizations of those who testified at the 14 days of public hearings held between March 12, 1990 and November 13, 1993 are presented in Appendix B at the conclusion of this report.



---

## Table of Contents

Executive Summary and Conclusions .....	1
Findings .....	4
Hiring by contractors .....	22
Job referrals by union hiring halls .....	24
Ghettoized workers .....	34
Disparities in earnings.....	34
Disparities in vacation, health and pension benefits .....	35
Lack of due process .....	37
Recommendations .....	39

### Appendix A

List of those invited to testify .....	48
--	----

### Appendix B

Individuals who testified .....	53
---------------------------------	----

### Appendix C

Commission on Human Rights' Sexual Harassment Guidelines .....	66
--	----



## **Executive Summary and Conclusions**

In 1989, the New York City Commission on Human Rights (hereafter referred to as the Commission) and the Division of Labor Services (DLS—the former Office of Labor Services), began a series of initiatives to investigate the extent of discrimination against African-Americans, Latinos, Asians, and Native Americans (all of which will be referred to in this document either as “people of color” or as “ALANA”, *i.e.*, the first letter of each of the four population groups just mentioned: African-Americans, Latinos, Asian-Americans and Native Americans) and women in the city’s construction trades. The decision to target the construction industry was based on the following factors.

First, it is a large industry employing roughly 100,000 people, many of whom did not graduate high school but are skilled in a specialized trade that can pay between \$30,000 and \$100,000 annually. As such, it is one of the few avenues for social mobility open to persons with a limited formal education. Second, the industry has a history of discrimination against people of color and women. And, the Commission wished to assess the impact of past institutional remedies and legal battles regarding discrimination. Third, the City of New York spends billions of dollars a year on construction projects, making it the largest employer of construction workers in the area. Hence, more aggressive anti-discrimination efforts by City government toward unions and contractors could have a discernable impact on the racial composition of the workforce. Fourth, recent state and federal court decisions threatened governmental efforts to integrate the industry, efforts such as alternative training programs and the development of affirmative action plans. The Commission hopes its efforts will mobilize public and private institutions to re-commit to integrating the industry.

---

The investigation involved several initiatives, of which the most far-reaching was a series of 14 public hearings held between March 12, 1990 and November 13, 1992. The hearings extended over the course of two and a half years primarily because many of the unions invited to testify would not come forward until subpoenaed. Several refused to comply with subpoenas issued by the Commission in 1990, leading to a State Supreme Court decision and Appellate Court decision in favor of the Commission in the Summer of 1992. Subsequently, four unions testified before the Commission in November of 1992. (See Appendix A)

By the end of these investigations, 80 construction workers in various skilled trades, more than 50 advocates, legal experts, and officials representing 13 construction unions and/or their joint apprenticeship committees, several contractors and contractor association representatives, and numerous government officials appeared before the New York City Commission on Human Rights—and in some instances the Division of Labor Services—to testify about the extent of discrimination in New York City's construction industry (See Appendix B).

The Commission and DLS sought to obtain all relevant information from construction workers, industry experts, unions, JACs (joint apprenticeship committees), contractors and government officials concerning the following issues:

- 1) The racial and gender composition of each union;
- 2) Whether the union and/or JAC is or has been under a court order to remedy discriminatory practices;
- 3) Whether union/JAC policies with regard to recruitment, entry requirements and admission rates of new members into an apprenticeship or New York Plan for Training Program indicates disparate treatment of women and people of color;
- 4) Whether training and educational opportunities differ for women and people of color;
- 5) Whether success in graduating to journey-level status differs significantly based on race, gender or national origin;

- 
- 6) Whether job referrals and work assignments indicate disparate treatment based on race, gender or national origin;
  - 7) Whether the dominant mode of obtaining employment in each trade is through union referral halls or directly through contractors;
  - 8) Whether disparities exist in the amount of hours worked by people of color and women in each trade;
  - 9) Whether terms and conditions of employment (*i.e.*, access to health benefits, amount of hours worked) for ALANA and women differ from those of white male workers.

The hearings were successful in that they provided the Commission with a deeper understanding of the unique nature of the construction industry in New York City, and a factual basis for proposing policy recommendations to make the industry's workforce representative of the racial and gender composition of the city's workforce. If there is a shortcoming in this report, it is surely the lack of hard information provided by contractors in each of the trades. Despite invitations to more than 20 contractors during the hearings process (Appendix A), only a handful testified or submitted written data. Due to time constraints, the Commission did not pursue or subpoena contractors to obtain further information. Instead, unions and their JACs provided the focus of the Commission's effort, in part, because several unions freely participated early on in the process, and a decision was made to gather data from all the unions before further pursuing reluctant contractors.

The 13 construction unions profiled in this report represent roughly 52,000 skilled construction workers in the New York metropolitan area. They encompass numerous buildings trades such as carpenters, electrical workers, sheetmetal workers, plumbers, steamfitters, structural and ornamental iron workers, operating engineers and elevator constructors. The 13 unions were selected because they have been either the subject of class action lawsuits alleging discriminatory practices, or have been impacted by legal decisions concerning the training and employment of people of color and women in the trades. Many remain under consent decrees supervised by court-appointed administrators.

---

The gains made by people of color in many of the construction trades during the 1960s and 1970s stalled during the 1980s in relation to the increase of people of color in the city's population, and in some trades, ALANA representation declined. In the 1990s, workers of all races in the building trades were hurt by the virtual halt in office construction brought about by the stagnating economy. Unemployment in the construction industry stood at 24.7% as of 1991, according to the Federal Bureau of Labor Statistics. It remains to be seen whether the 1990s will be a decade of greater inclusion.

## Findings

- 1. The severe underrepresentation of people of color and women in the skilled construction trades persists despite decades of efforts to integrate the construction industry. People of color comprise only 19%, and women just 1%, of the unionized, skilled construction workforce. These figures indicate a profound failure in social policy.**

Among the nine unions that supplied information on the racial composition of journeyperson membership (See Table A), people of color varied considerably from as high as 31.0% in Local 580 of the Bridge, Structural and Ornamental Ironworkers Union (whose jurisdiction includes Long Island), and 25.4% in Local 638 of the Steamfitters (whose jurisdiction also includes Long Island), to as low as 9.3% in Local 14, and 14.8% in Local 15, both of the Operating Engineers Union.

These percentages, in many cases, are well below even the inadequate and sometimes outdated availability percentages used by city, state and federal agencies to set affirmative action goals. (See Finding 12 for a discussion of the problems with these availability figures and a complete table of the percentages. Please note that the availability figures cited here are based on the 1980 Census, since those were still in effect when the data was gathered for this report). The failure of the unions to meet even these minimal standards can be illustrated by a comparison of union membership to the availability figures used by DLS.

Locals 14 and 15 of the Operating Engineers exhibited the greatest disparity between the availability of people of color and women in the trade and their representation

<b>Table A - Journey-Level Union Members Race and Gender Composition (% of Members)</b>					
<b>Union/Local</b>	<b>White</b>	<b>ALANA</b>	<b>Male</b>	<b>Female</b>	<b>Member</b>
Dist Cnsl Crpntrs	*	*	*	*	22,000
IBEW No. 3	81.8	18.2	99.3	0.7	8,363
Sheet Metal Wrkrs No. 28	83.6	16.4	*	*	4,131
Oper Eng No. 15	85.2	14.8	99.4	0.6	3,209
Steamfitters No. 638	74.6	25.4	98.9	1.1	3,174
Elevator Const No. 1	79.9	20.1	97.0	3.0	2,600
Plumbers No. 2	*	*	99.6	0.4	2,399
Ironworkers No. 580	69.0	31.0	98.9	1.1	1,440
Plumbers No. 1	*	*	*	*	1,000
Structrl Irn Wkrs No. 361	82.2	17.8	*	*	997
Structrl Irn Wkrs No. 40	80.9	19.1	99.7	0.3	974
Oper Eng No. 14	90.7	9.3	99.8	0.2	818
Total (% approximate)	81.0	19.0	99.0	1.0	52,005
Note: Figures for Locals 40, 361 and 580, subpoenaed in 1990, are based on 1992 EEO-3 forms. All others: 1990. * = Not Available					

among journeypersons within the trade union. Although the availability rate of people of color in the trade is 31%, according to DLS, Local 14 has a 9.3% ALANA membership and Local 15 a 14.8% ALANA membership, including people of color at less than 30% and 47.8%, respectively, of their 31% availability. Women are severely underrepresented in both unions, comprising 0.2% of members in Local 14 and 0.6% in Local 15—this despite a 3.0% availability rate. People of color in IBEW Local 3 represent 18.2% of the journeyperson ranks, although their availability rate as of 1980 was 36%. Their utilization rate, then, is only 50.6% of their availability in New York City's workforce. Women with electrician skills, according to DLS figures, are 2.0% of the workforce, but comprise only 0.7% of Local 3's membership—roughly a third of their availability.

In the Bridge, Structural and Ornamental Iron Workers trade, Locals 40 and 361 included people of color at rates of 19.1% and 17.8% respectively, which are near to the 20% ALANA availability rate. Local 580 actually exceeded this availability figure with a 31% ALANA membership. Although availability data lists the figure of 0% for female Structural Iron Workers, Local 40's and 580's female membership is 0.3% and

---

1.1% respectively. As for Steamfitters Local 638, the union's membership is 25.4% ALANA, significantly below the 35% ALANA availability rate in the trade. With a 1.1% female membership, the union meets the availability rate of 1.0%.

Local 1 of the Elevator Constructors Union had a 20.1% ALANA membership, somewhat below the 23% ALANA availability rate in the trade. Female membership, estimated at 3.0% by union president John Green, is substantially above the 0.5% availability rate used by DLS. Local 28 of the Sheet Metal Workers has a 16.4% ALANA membership, and its jurisdiction encompasses Long Island and northern New Jersey. Local 28's New York City membership is 38.4% ALANA, which exceeds the 32% availability rate used by DLS. The New York City District Council of Carpenters, and Locals 1 and 2 of the Plumbers Union did not supply journey person information on race, claiming they are not required to maintain such information and see no reason to compile it. The District Council of Carpenters and Local 1 of the Plumbers also did not provide data on gender.

It must be kept in mind that those memberships which are close to or higher than the DLS availability figures might fall short if availability were measured in the more comprehensive manner suggested by some of the hearings testimony.

**2. While there is underrepresentation of all people of color within trade unions, it is most pronounced among Asian-Americans and Latinos, suggesting that outreach and recruitment are not evenly extended to all communities of color.**

Nine unions provided data on ALANA membership, but only five broke the figures down into categories of African-American, Hispanic, Asian-American and Native American. The more detailed information provided by some unions showed that underrepresentation exists across the board, but is more pronounced for certain ALANA groups than others. Underrepresentation of African-Americans certainly exists, but not to the same degree as Latinos and Asians. Asians, in particular, are virtually nonexistent among union journeypersons in any of the trades, although this group is fast approaching 10% of the city's population.

<b>Table B - Racial Breakdown of ALANA Journeypersons</b>						
<b>Trade/Union</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>	<b>Native American</b>	<b>All ALANA</b>	<b>All Members</b>
Sheet Metal Wrks Loc 638	802	3	0	0	805	3,174
Structural Iron Wrks L. 580	355	97	0	5	457	1,440
Iron Wrks Local 40	108	34	5	46	193	974
Iron Wrks Local 361	63	15	1	98	177	997
Op Eng Local 14	53	22	0	1	76	818
<b>Total #</b>	<b>1,381</b>	<b>171</b>	<b>6</b>	<b>150</b>	<b>1,708</b>	<b>7,403</b>
<b>Total % ALANA</b>	<b>80.9</b>	<b>10.0</b>	<b>0.4</b>	<b>8.8</b>	<b>100.0</b>	
<b>Total % All Members</b>	<b>18.7</b>	<b>2.3</b>	<b>0.1</b>	<b>2.0</b>	<b>23.1</b>	
<b>Note: All figures provided by union officials</b>						

As Table B indicates, blacks constitute 81% of all people of color, and 18.7% of all union members in the five unions for which complete data was available. Latinos account for just 10% of ALANA union members and 2.3% of all union members. Asians comprise only 0.4% of all ALANA union members and a miniscule 0.1% of all union members. The disproportionately high percentage of Native Americans (8.8%) among ALANA members is due to their large presence in the structural and ornamental iron works trades. Native Americans comprise 2.0% of all union members in the skilled trades—a figure greater than their representation in the city’s population.

Among the unions for which complete data is available, there are no Asians among the 3,174 members of Steamfitters Local 638, the 1,440 members of Local 580 of the Ornamental Iron Workers, or Operating Engineers Local 14’s 818 members. In Steamfitters Local 638, African-Americans are well represented at 25.3% of all union members, but Latinos are severely underrepresented at less than 1% of union membership. In Bridge, Structural and Ornamental Iron Workers Local 580, African-Americans account for 24.7% of all union members while Hispanics comprise only 6.7% of the membership. These figures demonstrate that gains made by newer immigrant communities, such as people of Latino and Asian descent, have been minimal, while African-Americans continue to be underrepresented as well.

### **3. Many unions and joint apprenticeship committees have yet to comply with court-ordered membership and apprenticeship goals**



---

**set in the 1970s as a result of class action lawsuits. Litigation has brought about improvements but also has led federal and state agencies to waive law enforcement responsibilities.**

Several unions were under federal court orders during part of the 1980s as a result of longstanding litigation brought for racially discriminatory practices. Sheet Metal Workers Local 28, with an ALANA composition of 16.4% as of 1990, has yet to reach compliance with a Federal District court order from the late 1970s which set a 29.2% "minority" membership goal. Although the union's New York City membership (25.2% of its 4,131 members reside in New York City) is 38.4% ALANA, the city accounts for a small portion of the total membership of the union. Nearly 75% of members reside in Long Island, northern New Jersey and other locations. Given that the available workforce in New York City greatly exceeds that of Long Island and Northern New Jersey, the union should be attracting far more than 25% of its members from New York City.

Elevator Constructors Local 1, with an ALANA membership rate of 20.1%, will remain under a consent decree until people of color comprise 33.3% of the union's membership. Operating Engineers Local 14 also remains under a consent decree as a result of a 1977 court case which set a 26% ALANA membership goal. With an ALANA membership rate of 9.3%, the union is far from reaching compliance. From 1982 through 1988, Operating Engineers Local 15 had been under a Federal District Court consent decree which set a goal of 20% ALANA membership. In 1988, a District Court judge dissolved this consent decree even though the union's ALANA journeyman membership only reached 14.8%. Apparently this move was taken because the union's apprenticeship program was admitting people of color at an annual rate of 20%.

Ironworkers Local 580, whose jurisdiction encompasses New York City, Westchester and Long Island, has been under a consent decree since 1978, requiring the union to develop an affirmative action plan and increase its ALANA membership to 24% over a five-year period. In 1987, a Federal District Court judge found Local 580 in contempt of the court order, and in 1991, the U.S. Court of Appeals, Second Circuit, affirmed the 1987 ruling. The union has reached compliance with ALANA membership at 31% as of 1992, making it the only union to comply with court-ordered numerical goals.

---

The New York State Department of Labor (NYSDOL) has a policy of waiving jurisdiction over unions under Federal court order. However, since these cases dealt only with racial discrimination, women were not included in any of the court-ordered goals. As a result, neither the state nor federal government carefully monitored women's progress in these trades.

- 4. For people of color and women, virtually the only way to gain journeyperson status is by completing an apprenticeship program, whereas whites often become journeypersons simply through being organized into a union local while employed at a job site, without going through an apprenticeship. Thus contractors share responsibility for the underrepresentation of women and people of color in unions.**

The unions studied in this report build their membership in three different ways: First, the primary means of swelling union memberships is through the process of organizing the workforces of non-union contractors or companies which fall under the work scope and jurisdiction of the union. The union requires the company to pay the rates and fringe benefits set in collective bargaining agreements. Second, apprentices admitted into the joint apprenticeship program and/or the New York Plan for Training Program are admitted as members. Third, occasionally contractors sponsor non-union workers in their employ, and if the workers are qualified, they are accepted by the union and receive standard union benefits.

Of these routes of entry, the largest number of workers enter construction unions by being organized into them while on construction sites, regardless of whether or not they have participated in joint apprenticeship programs. This was acknowledged by Thomas Maguire, President of the Operating Engineers, Local 15:

*An individual can still get a journeyman's book without going through the apprenticeship program. There are various ways. We are constantly organizing where we are successful. If we can organize a company and the company signs an agreement and agrees to pay the rates and the fringes, we then organize the people working for that company who fall within the work scope and jurisdiction of Local 15.*

---

The racial composition of these newly organized workforces can vary, but they are often predominantly white, particularly if they are on privately financed jobs, in which case the contractors may not be under federal goals. Thus, unions pick up new members—but the existing workforce may have been assembled by a contractor who engaged in discriminatory practices.

Workers on these sites, who are most often white, usually are hired because they have personal connections, rather than—and regardless of—whether they have the necessary skills. They are then trained on the job, and automatically obtain union membership when the union organizes the workforce. These workers often don't have to endure a four- or five-year apprenticeship program which is virtually the only route of entry into the unions available to workers without such personal connections. As one worker explained,

*The union will bring in a guy who happens to be their friend—he may be working in a pizza parlor all his life—and they put him to work. He doesn't have to know anything, and he can get paid full [journeyperson] scale. That mostly happens with the white guys.*

Thus, increasing ALANA participation in apprenticeship programs addresses only one route of entry into the skilled construction trades. Even if people of color are well represented among graduating apprentices, they continue to remain underrepresented in the trades because whites retain privileged access to these alternate avenues to union membership, which are generally not available to people of color.

For example, Operating Engineers Local 14 Training Director Thomas Gleason testified that the union had taken in 32 journeypersons in 1989-90. But only one person, a "minority," had graduated from the training program during that time. All the other new members entered the union as journeypersons through other routes: they did not have to complete the four-year training program. Local 14 has a 9.3% ALANA membership, the lowest of all unions profiled in this report.

Even the people of color who attempt to enter unions through apprenticeship programs have difficulty gaining union admittance:

*The President of Local 15 [Operating Engineers] made a lot of different appointments with me which he hasn't kept. He said there wasn't any opportunity to join*

---

*the union. I operate a backhoe, excavator, bulldozer, front end loaders, most of the equipment. I have approached the contractor about his sponsoring me to get into the union but they don't do it. You have to have connections.*

*In August of 1989, I graduated [the apprenticeship program] and I was denied a union book which prevented me from gaining access to a union job through their referral system, even though I had two contractors and a job for me upon receiving my book.*

*I was able to join the union after a few months, but was unable to get credit for work I had done beforehand. They turned me down even though I gave them the name of the company, and they marked my card as a first year apprentice. The same day, a man who had just emigrated from Ireland walked in and applied. In return for a \$500 fee, they didn't even ask him any questions about his experience and stamped his card as Mechanic level. Giving preferential treatment like this to men, especially white and Irish men, is very common.*

- 5. People of color comprise 27.6% of apprentices, and females only 3.4% of apprentices, in nine major apprenticeship programs. Participation goals for women and people of color, as set by the New York State Department of Labor, are not enforced effectively in any joint apprenticeship program.**

Based on figures provided by the Joint Apprenticeship Committees [See Table C on the following page], it is evident that ALANA (African-Americans, Latinos, Asian-Americans, Native Americans and others) continue to be underrepresented in most apprenticeship programs. People of color total 1,988 (27.6%) of the 7,212 apprentices in the trades of plumbing, electrical work, operating engineer, carpentry, sheet metal work, steamfitting, and bridge, structural and ornamental iron work.

Apprenticeship enrollment goals are developed by the New York State Department of Labor (NYSDOL) as authorized by the Federal Bureau of Apprenticeship and Training. They are based on the proportions of people of color and women in the Census. (See Table D on page 13; note that the goals are based on the 1980 Census, since 1990 Census figures were not in effect when the data was gathered for this report). Many of the apprenticeship programs do not meet these levels.

<b>Table C - Race/Gender Composition of Apprenticeship Programs - % Enrolled - 1990</b>					
<b>Trade/Union</b>	<b>White</b>	<b>ALANA</b>	<b>Male</b>	<b>Female</b>	<b>Enrollment</b>
Dist Cnsl Crpntrs	71.7	28.3	96.1	3.9	3,607
IBEW Local 3	83.6	16.4	97.3	2.7	2,169
Sheet Metal Loc 28	26.2	73.8	*	*	495
Plumbers Local 2	77.1	22.9	96.9	3.1	293
Steamfitters Loc 638	81.2	18.8	92.5	7.5	239
Plumbers Loc 1	81.9	18.1	100.0	0	160
Str Irr Wks Lc 40/361	69.9	30.1	98.6	1.4	139
Orn Irr Wkrs Loc 580	50.0	50.0	*	*	90
Op Eng Local 15	55.0	45.0	70.0	30.0	20
<b>Totals</b>	<b>72.4</b>	<b>27.6</b>	<b>96.6</b>	<b>3.4</b>	<b>7,212</b>
<b>Note: Figures provided by union JACs.      * = Not available</b>					

With the exception of Sheet Metal Workers Local 28, which is under court order, no large joint apprenticeship program exceeds 30% ALANA enrollment. The smaller joint apprenticeship programs tend to have a higher proportion of people of color, as evidenced by Bridge, Structural and Ornamental Iron Workers Locals 40/361 and 580, which have 38.1% and 50% ALANA enrollment, respectively. Operating Engineers Local 15's apprenticeship program has a 55% ALANA enrollment—but there are only 20 participants. Since other routes to journeyperson status exist, a relatively high ALANA participation rate in apprenticeship programs cannot be expected to lead to significantly greater ALANA journeyperson membership a decade hence.

Women were severely underrepresented in each of the apprenticeship programs, comprising only 3.4% of all enrolled apprentices. The one program with a significantly high percentage of female participants—Operating Engineers Local 15's program—is so small that the 30% female enrollment is not statistically significant. The New York State Department of Labor (NYSDOL) has established goals of more than 40% for women in each joint apprenticeship program (See Table D). It is generally agreed by advocates for women and by regulatory agencies that these female goals are high, but the federal government has not authorized New York State to develop and enforce realistic goals for female apprentices.

<b>Table D - Race/Gender Goals and Actual Composition of Apprenticeship Programs</b>					
	<b>People of Color</b>		<b>Females</b>		
<b>Trade/Union</b>	<b>% Goal</b>	<b>% Actual</b>	<b>% Goal</b>	<b>% Actual</b>	<b>Total Apprentices</b>
Dist Cnsl Crpntrs	43.5	28.3	45.3	3.9	3,607
IBEW Local 3	43.3	16.4	45.3	2.7	2,169
Sheet Mtl Loc 28 **	29.2	73.8	44.1	*	495
Plumbers Loc 2	32.8	22.9	44.1	3.1	293
Steamfitters Loc 638	21.8	18.8	43.2	7.5	239
Plumbers Loc 1	39.3	18.1	45.1	0	160
Str Irn Wks L 40/361	39.3	30.1	45.1	1.4	139
Orn Irn Wks Loc 580	39.3	50.0	45.1	*	90
Op Eng Loc 15 **	29.0	45.0	44.0	30.0	20
<b>Total</b>		<b>27.6</b>		<b>3.4</b>	<b>7,212</b>
* = Not Available ** = Female goals supplied by NYSDOL. All others supplied by union JAC officials					

No program is remotely in compliance with NYSDOL's goals for women. Although women comprised just 3.4% of apprentices in 1989-90, they comprised only 1.8% of all graduates and 7.5% of the drop-outs during the same period.

It is still not completely clear why the apprenticeship programs have not been brought into compliance by NYSDOL. Some testimony alleged that the State is simply too lenient with the JACs. Other testimony indicates that some JACs which were under court order followed only the standards set by that order, even when they were less stringent than the NYSDOL goals.

**6. The problem of underrepresentation of people of color and women in the apprenticeship programs is compounded by the fact that people of color and women graduated at significantly lower rates than white males.**

People of color, who comprised 27.6% of apprentices during 1989-90, accounted for just 16.4% of graduates, while whites comprised 83.6% of this group. Given the current rates of completion, the prospect of greater racial integration of the skilled

---

construction trade unions in the near future is dim. JAC officials provided a variety of explanations for these bleak results, including lack of work opportunities leading to financial hardships and discouragement, the demanding and long-term nature of the programs, and inadequate preparation of apprentices. These explanations beg the question as to why such disparities exist in graduation rates between white apprentices and apprentices of color.

Given the relative isolation of women, who number less than 10 in many of the apprenticeship programs, the pervasive sexual harassment and lack of career advancement opportunities have had a chilling effect on many female apprentices. A number of expert witnesses noted that the drop-out rate for women exceeds 50% in a number of joint apprenticeship programs.

**7. Women and people of color have not experienced significant advancement to management positions in the unions and joint apprenticeship committees. Very few people of color are included among the ranks of elected officers in their union local. While many unions have appointed/elected some ALANA shop stewards, they remain significantly underrepresented.**

In skilled construction trade unions, there are very few, if any, people of color and women elected to the various offices of union locals and joint apprenticeship committees. In Sheet Metal Workers Local 28 there are no people of color among 31 elected union officers, nor among the members of the joint apprenticeship committee, according to Joseph Casey, Local 28's Recording Secretary. He didn't know how many of the roughly 75 shop stewards, appointed by Business Manager Arthur Moore, were people of color or female. Charles Fanning, Director of Apprenticeship Training for the New York City District Council of Carpenters, stated that there were no women among the more than 100 officers of the District Council in 1990.

Joseph Santoro of Plumbers and Gas Fitters Local 1 stated that there were no female members of the joint apprenticeship committee. President Salzarulo of Plumbers Local 2, said his union had "four minority shop stewards" out of dozens of shop stewards, and some lower level ALANA officers on the union staff in the apprenticeship

program. (He stated he couldn't be sure how many). Local 40 of the Bridge, Structural and Ornamental Iron Workers includes no people of color or women among its 17 executive board members. According to Local 40's Business Manager, James Mullett, "some minorities have run for office, but they weren't elected." Mr. Kaufman of Bridge, Structural and Ornamental Iron Workers Local 580 stated that the union "has one minority member of the executive board." He didn't mention women, though he was asked. Most other union officials claimed not to know how many people of color or women had campaigned for or were elected to higher union office.

**8. Outreach efforts by joint apprenticeship programs to communities of color have not been evenly extended, particularly in communities where English is spoken as a second language (e.g., Latino and Asian-American communities).**

Outreach to ALANA communities by joint apprenticeship programs has been uneven and, in most cases, inadequate, as evidenced by Table E. Although all JACs announce enrollment opportunities in newspapers, including those with other than English-speaking audiences, direct outreach to communities of color by bilingual recruiters is limited. The evidence strongly suggests that some communities have not been aggressively recruited, and are significantly underrepresented in many apprenticeship programs.

<b>Table E - Racial Breakdown of ALANA Apprentices</b>					
<b>Trade/Union</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>	<b>Other</b>	<b>ALANA</b>
Dist Cnsl Carpenters	615	376	19	10	1,020
IBEW, Local 3	158	172	0	25	355
Plumbers Local 2	31	31	0	0	62
Steamfitters Local 638	27	16	2	0	45
Plumbers Local 1	21	8	0	0	29
Iron Workers Loc 40/361	38	13	0	2	53
Op Eng Local 15	7	2	0	0	9
<b>Total Number</b>	<b>897</b>	<b>618</b>	<b>21</b>	<b>37</b>	<b>1,573</b>
<b>Total Percent</b>	<b>57.0</b>	<b>39.3</b>	<b>1.3</b>	<b>2.4</b>	



---

Although more than three thousand Asian-Americans work for Asian-American non-union contractors, no persons of Asian descent were to be found in the apprenticeship programs run by Plumbers Locals 1 and 2, and Operating Engineers Local 15. Latinos were also underrepresented in joint apprenticeship programs, although not to the same degree as noted at the journey person level.

**9. Eligibility requirements and selection procedures used by joint apprenticeship committees have an adverse impact on women, people of color, and immigrants who do not speak English.**

All apprenticeship programs are registered with the New York State Department of Labor (NYSDOL). They are administered by joint apprenticeship committees which consist of contractor and union members. A board of trustees handles the financial management of the JAC. Each JAC develops minimum eligibility requirements, which vary slightly from one trade to the next. In the past, JACs have been sued for setting entry requirements which have an adverse impact on people of color (such as a requirement for a high school diploma) and on women (such as setting a maximum age). To date, there remain sharp differences in acceptance rates of whites versus people of color, and men versus women, in a number of the apprenticeship programs.

Several members of the District Council of Carpenters stated that the current "open admissions" policy is discriminatory in practice. Prospective apprentice applicants first must present themselves to a contractor and obtain what is referred to as an "intent to hire" letter before they can be admitted. As several women pointed out, they were laughed at when attempting to get such a letter from a contractor.

Several witnesses claimed that the apprenticeship selection procedures were biased against women. The interview process, which some unions weight very heavily in selecting applicants, received its share of criticism. For example, the interview is nearly 40% of an applicant's score in IBEW Local 3's program, and it was said to be very subjective, with items such as "personal attributes" and "attitude" calculated into the scoring system. Plumbers and Gas Fitters Union Local 1 scores applicants based on five factors: education, physical condition, level of interest, personal traits, and attitude. Each factor is weighted at 20 points, allowing subjectivity to influence the selection process.

---

With respect to the interview process, no standardized, validated questions were used to assess applicants' qualifications. Women, in particular, often were asked inappropriate questions about their personal life. The interviews were conducted by a group of men (usually composed of two employers and two union representatives) who asked about marital status, interest in having children, and why the applicant would want to work in a predominantly male environment. Interviewers often tried to "weed out" women early in the process by stressing the difficulty of the work. Women also were informed that men would resent their presence. In no way was a tone established which apprised women that, if qualified, they would be supported.

- 10. Many joint apprenticeship programs are not large enough to enable them to maintain the apprentice-to-journeyperson ratios set by collective bargaining agreements. Often contractors have not employed apprentices in accordance with the number of journeypersons on job sites, nor have regulators required them to do so. Former apprentices and officials of joint apprenticeship committees agreed that a lack of employment opportunities is a major factor in the high drop-out rates in some programs.**

Each union determines an apprentice-to-journeyperson ratio, which varies depending on the trade. However, the size of apprenticeship programs set up by the unions often falls short of supplying the number of apprentices that could be placed on job sites alongside journeymen. (See Table F on the following page). The most striking example of this is seen in Operating Engineers Local 15, which allows for an apprentice-to-journeyperson ratio of 1-to-6, but has only 20 apprentices for 3,209 journeymen: a 1-to-160 ratio.

IBEW Local 3 has an apprentice-to-journeyperson ratio of 1-to-3, although in actuality the union has 2,169 apprentices and 8,363 journeymen: about a 1-to-4 ratio. Sheet Metal Workers Local 28 allows for a 1-to-4 ratio, but maintains 495 apprentices and 3,222 journeymen: about a 1-to-8 ratio.

Many unions claim they determine the size of their apprenticeship classes based on economic conditions. There is high unemployment in the industry, nearly 25%,

<b>Table F - Union Apprentice-to-Journey-person Ratios</b>				
<b>Trade Union</b>	<b>Apprentices</b>	<b>Journey-persons</b>	<b>Actual Ratio</b>	<b>Ratio in CBA</b>
Dist. Council of Carpenters	3,607	22,000	1 - 6.1	1 - 5
IBEW Local 3	2,169	8,363	1 - 3.9	1 - 1, 1 - 3
Sheet Metal Wrks Loc 28	495	4,131	1 - 8.4	1 - 1, 1 - 4
Oper. Engineers Local 15	20	3,209	1 - 160.5	1 - 4, 1 - 6
Steamfitters Local 638	235	3,174	1 - 13.5	1 - 3
Plumbers Local 2	284	2,390	1 - 8.4	1 - 2, 1 - 5
Str Iron Wrks Loc 40/361	139	1,971	1 - 14.2	1 - 10
Ornmntl Iron Wrks Loc 580	90	1,440	1 - 16.0	1 - 4, 1 - 6, 1 - 10
Plumbers Local 1	160	1,000	1 - 6.3	1 - 2, 1 - 5
<b>Note:</b> Local 15 figures apply to Heavy Equipment Operators. Heavy Duty Repairers have a ratio of 1-3 for the first four workers hired, 1-5 for the next six workers hired, and 1-7 thereafter. Local 28 figures apply to Sheet Metal Workers. Sheet Metal Artisans have a 1-1 ratio. Source: Stated ratios were provided by the NYS Department of Labor in March 1993.				

because of the recession. Still, the size of apprenticeship programs is somewhat arbitrary. The District Council of Carpenters used to have about 900 apprentices in the late 1970s, and has over 3,000 apprentices today.

- 11. The New York Plan for Training has been rendered virtually obsolete as a result of the Monarch decision. Trainees in the program can only work on federally assisted sites under the Industrial and Commercial Incentive Program (ICIP). This is unfortunate, since training programs graduate a significant number of people of color, as compared to joint apprenticeship programs.**

The New York Plan for Training, a federally funded program created in 1970, was an attempt to provide people of color with a means of attaining journey-level status which would operate parallel to joint apprenticeship programs. The trainee programs were designed to offer continuous enrollment and flexible entry requirements for economically disadvantaged individuals along with instruction and training compa-

rable to that provided by apprenticeship programs. In 1980 the New York Plan for Training was bolstered by Mayor Koch's Executive Order 50. It mandated that city-assisted construction contractors working on projects under the federally funded Industrial and Commercial Incentive Program [ICIP] hire one economically disadvantaged person as a trainee for every four journey-level workers in each trade. The Division of Labor Services is charged with enforcing EO 50.

In 1987, the New York State Court of Appeals ruled, in Monarch Electrical Corp. v. Roberts, that contractors on city- and state-assisted work sites must pay trainees journey-level wages, not the lower apprenticeship-level wages. As a result of this decision, the federally funded training programs run by many unions have become virtually obsolete, since the vast majority of projects involve some state and/or city financial assistance. Local 3 of IBEW stopped enrolling new trainees in 1989.

These setbacks have led some advocates for construction workers to call for the elimination of the training program because it is fatally flawed. They argue that trainees are treated like second class citizens, given inferior education and training, and are stigmatized as undeserving "minorities" who are being assisted by a federally funded program.

People of color comprise 72.2% of trainees in the New York Plan, and women comprise 7.4% of the trainees, which is more than twice their participation rate in apprenticeship programs. Still, in numerical terms, their enrollment remains very low, and will not lead to a large increase in female journey-level membership. (See Table G).

Table G - Race/Gender Composition of Training Programs - % Enrolled 1989/90					
Trade/Union	White	ALANA	Male	Female	Enrollment
Plumbers Local 2	58.8	41.2	95.0	5.0	119
IBEW	24.3	75.7	*	*	78
Dist Cnsl Carpenters	4.2	95.8	*	*	71
Sheet Mtl Loc 28	*	*	*	*	*
Steamftrs Loc 638	6.8	93.2	*	*	29
Op Eng Loc 15	55.0	45.0	70.0	30.0	20
Total	28.8	72.2	92.6	7.4	355
Note: All figures provided by union officials * = Not Available					

---

The New York Plan's training programs generally were much smaller than the apprenticeship programs (7,212 apprentices compared to 355 trainees in 1990), but have a much higher percentage of ALANA enrollment than apprenticeship programs. 72.2% of trainees are people of color, as opposed to 27.6% of apprentices.

Despite its small size, the New York Plan for Training Program has had an impact. In 1989-90, at least 62 people of color and three women graduated, compared to 166 ALANA graduates and 18 female graduates in the apprenticeship programs. Since the training programs supply roughly two graduates to every five graduates supplied by the joint apprenticeship programs, their importance as an avenue for people of color to enter the unions cannot be dismissed.

With regard to IBEW Local 3, the District Council of Carpenters, and the Plumbers Local 2, the training programs supply nearly as many ALANA graduates as the apprenticeship programs. However, this says more about the failure of the apprenticeship programs to provide meaningful opportunities to people of color than it does about the success of the programs.

**12. The availability figures used by government agencies to determine what proportion of contractors' workforces should be women and people of color should be employed by contractors are inadequate and often outdated. Because of this, even if contractors meet these levels, a large proportion of trained people in these groups will not be employed.**

On federally funded projects, the U.S. Labor Department's Office of Contract Compliance relies on availability figures issued in the Federal Register in October 1980, and on 1970 census data. (See Table H). These figures are the basis for "minority" goals for electricians of between 9.0% and 10.2% of hours worked by all electricians on federally funded sites, for example, which contractors have little difficulty exceeding. While it is widely recognized that these availability figures are badly outdated, they have not yet been revised. After 12 years of inaction under the Reagan-Bush administrations, the U.S. Labor Department is currently conducting a study to revise availability figures.

<b>Table H - ALANA and Female Workforce Availability in Select Skilled Construction Trades in NYC</b>				
<b>Trade</b>	<b>OFCCP Availability Figures</b>		<b>DLS Availability Figures</b>	
	<b>% ALANA</b>	<b>% Female</b>	<b>% ALANA</b>	<b>% Female</b>
Carpenters	27.6 - 32.0	6.9	35.0	1.0
Electricians	09.0 - 10.2	6.9	36.0	2.0
Sheet Metal Workers	24.6 - 25.6	6.9	32.0	2.0
Steamfitters	12.2 - 13.5	6.9	35.0	1.0
Operating Engineers	25.6 - 26.0	6.9	31.0	3.0
Plumbers	12.0 - 14.5	6.9	35.0	1.0
Elevator Constr/Repair	05.5 - 06.5	6.9	23.0	0.5
Structural Iron Workers	29.5 - 32.0	6.9	20.0	0.0
Ornamental Iron Workers	22.4 - 23.0	6.9	20.0	0.0
Note: Federal figures are based on 1970 census data and other pre-1970 sources. NYC figures are based on 1980 census data. Neither federal nor NYC figures have been revised as of the writing of this report.				

The New York City Division of Labor Services, which monitors New York City construction contracts for compliance with EEO requirements, also uses federal availability figures on federally funded projects. When a project involves state and/or city funding, DLS uses availability figures based on the 1980 census, as stated in Policy Memo #7-85 (See Table H). These figures range from 20% to 36%, depending on the trade. DLS reviews contractor EEO forms to ensure that they have made a good faith effort to employ "minority" and female journeypersons in accordance with the availability levels in each trade. At the time the data was gathered for this report, 1990 availability figures had not been developed, so that 1980 figures were still in effect.

Reliance on census data alone, regardless of how current it may be, was criticized by many of the advocates and experts who testified at the hearings. They contend that, since the number of people who are trained in the skilled trades and are thus reported as such in the Census is held down by discrimination, employment goals based on these will always be too low. In addition, the problems with undercounting

---

people of color, which have received considerable publicity, add to the sense that availability figures based solely on the Census are inadequate.

Many advocates for women in the trades stated that the availability figures for women, much like for people of color, merely reflect the past discrimination which has prevented qualified people of color and women from entering the skilled construction trades. The U.S. Department of Labor began setting federal goals for female employment on federally funded job sites in 1978. In 1980, the numerical goal was revised upward to 6.9%. Hence, any contractor receiving federal funds is required to employ women at a rate of 6.9% of all workers on every work site, both public and private. When contractors employ workers on federal projects, women are more likely to be found on job sites—but rarely at the 6.9% level. Many women who testified at the hearings stated that it is usually the case that each is the only female in her trade on a work site.

**13. The lack of standardized formal procedures and accountability in hiring on the part of contractors and union referral halls has a disparate impact on people of color and women in terms of both employment opportunities and hours worked.**

There are two primary modes of obtaining employment in the construction industry. Most workers obtain employment directly from contractors and foremen; others are referred to jobs by union-run hiring halls. Both methods lack standardized, formal procedures, and in practice have an adverse impact on women and people of color.

**Hiring by contractors**

Historically, nepotism and patronage have been endemic to the construction industry. As recently as 1963, the Commission concluded after extensive hearings that the construction unions were largely Irish or Italian. Union entry and work opportunities were simply a matter of being sponsored by a family member or personal acquaintance. For example, in 1964, the New York State Division of Human Rights found that in Sheet Metal Workers Local 28, 80% of the 430 apprentices had family ties to members.

---

While the industry has been forced to be more careful about implementing hiring policies, often as a result of costly litigation, personal connections still can play a critical role when it comes to obtaining work. As many ALANA construction workers pointed out, while an achievement in itself, union membership does not guarantee that they will obtain work on a regular basis. Unemployment among New York City construction workers is very high—24.7% during 1991 (the most recent year for which data is available)—and anecdotal evidence indicates that among people of color, unemployment is even higher.

The standard procedure for obtaining work in most trades, with the notable exception of the electrical trade, is through an informal grapevine. Contractors and foremen assemble work crews which often stay intact from one job to the next. Workers pass along information to friends about contractors who are hiring, leading to unequal access to information about jobs. This places people of color and women at a significant disadvantage.

The two primary routes to obtaining work are directly through a contractor, or through the union's referral hall or "hiring hall." Several major trades, such as Steamfitters Local 638 and Sheet Metal Workers Local 28, do not utilize a hiring hall.

In such trades, union members obtain work mainly through contacting contractors or foremen for whom they have previously worked. Contractors often seek out a crew of workers who worked for them on a previous job when setting up a new site. If such work doesn't come along, union members may go out "shaping" sites or calling a business agent to find out about contractors who are hiring. ALANA workers testified that when they shaped jobs, many contractors tried to pay them less than the prevailing wage.

A number of African-American and Latino workers testified that, at times, they shaped work sites for weeks and months without success. Their frustration over the limited availability of work has, over the years, resulted in the formation of numerous "minority coalitions." Some coalitions work with contractors and through the political process to increase the representation of people of color in the construction industry. Other so-called minority coalitions use intimidation and violence to "shake down" contractors and secure jobs for members. Some ALANA workers acknowledged belonging to coalitions which disrupted work sites in order to demand jobs. While



---

reprehensible, these practices must be viewed in the context of government's failure to enforce fair hiring practices in the construction trades.

People of color and women testified that contractors hire them only if a project is federally funded, in which case certain goals must be met. For women in particular, the primary means of obtaining work seemed to be when a contractor called an organization such as Nontraditional Employment for Women (NEW) to request one or more women for a federally funded job. Aside from federal projects, job opportunities for female apprentices and journeypersons are severely limited by union contractors. Several women stated that the city and unions already know which contractors discriminate against women, but choose to do nothing about it.

*I found that the most outrageous contractors were ones who the city gives the most money to—Tishman, HRH and S&A Concrete. The fines are obviously not significant enough, and they know also that they can get support from the unions. You can't find women on Tishman jobs. From January 1988 to June 1989, NEW was only able to get one woman hired on a Tishman job. The apprentice administrator of Local 28 just a week ago told me that it is a fact that the employers are refusing now to hire females.*

#### **Job referrals by union hiring halls**

In most instances, union-run hiring halls account for less than 30% of job referrals for skilled workers. Many do not refer workers on a "first in-first out" basis, nor do they maintain information on jobs available and persons referred in an open, accountable manner. Despite these drawbacks, people of color and women often must rely on hiring halls for work because they lack the personal and familial connections white males often have.

Testimony by construction workers and union officials at the public hearings highlight two major points about the referral halls. First, IBEW Local 3, the 17 local affiliates of the District Council of Carpenters, and the United Association of Ornamental, Bridge and Structural Iron Workers Local 580 are the only construction unions in which hiring halls play a major role. In most of the trades, only a small percentage of jobs, especially long-term jobs, are funneled through them; and second, in those trades which have hiring halls, they are administered in a non-standardized and politicized manner.

---

As attested to by Thomas Maguire, President of Operating Engineers Local 15, the number of individuals referred by their hiring hall is *"minor, maybe twenty, twenty five percent."* The same is true for Local 14, according to Training Director Thomas Gleason. And Plumbers Local 1 President Joseph Santoro stated that *"a very small percentage"* of workers obtain jobs through the referral hall.

Based on the testimony of union officials, it is clear that the unions don't have uniform job referral procedures. In theory, hiring halls process contractors' requests for workers on a first in-first out basis. However, if contractors request a specific person, the request is honored, regardless of the worker's place on the list. This is not a rare occurrence: a number of workers and union officials testified that it is common for contractors to ask for union members by name.

Local 3 of the International Brotherhood of Electrical Workers has the most comprehensive job referral system. Virtually all union members are sent out to job sites by the Employment Director of the Joint Industry Board (JIB). In theory, unemployed members are welcome to sign the "out-of-work list" at the JIB office. The union's business agent places the names of those members who have been out of work the longest at the top of the list, and keeps track of each member's placement on the list. When a union member's name moves to the top of the list, he or she is allegedly the first member referred out for a job. However, the JIB also takes into consideration the worker's skills, experience and past job performance before referring the individual for a job.

Numerous workers in Local 3 stated that they were denied access to the union office to sign the out-of-work list. As one African-American journeyman testified:

*Local 3 is the only local in the country I've ever seen that denies you an opportunity to just sign the out-of-work list when you're a Book 2, dues-paying member of the IBEW.*

Others mentioned that work assignments and overtime depended on whether they supported union functions, such as buying raffle tickets and demonstrating support for elected union officials. Allegations of discrimination were made repeatedly by members of Local 3 with regard to the Employment Director, Mr. McCormick, of the JIB. Many people of color claimed that they were unemployed at least 12 weeks out of the year—a much higher downtime than white workers.

---

*Over the last year, I would say [I've been unemployed] about twelve weeks. [The average journey person working for Local 3 is unemployed] about half as many weeks . . . When I go down to the hall to sign up for another job, I'm told "we'll get back to you."*

*The [Employment] Director of Local 3 is never to be found. I was out of work for a year and a half, and my unemployment ran out.*

*As a minority, you are the last to be hired and the first to be fired. They put you to work for one or two days at a job that is finishing, you get laid off and you end up back at the union. You have to wait weeks, a month and a half. So you're lucky if you get three months of work a year.*

*We have a serious problem down at our local [Local 3] with the Employment Director, Robert McCormick. He has a lot of power, and he is just not using it the right way.*

Local 3's President, Thomas Van Arsdale, Jr., acknowledged that, in general, the union does not make the referral list available to members who wish to examine it. He was not aware that unions in which more than 10% of members obtain work through referrals must, according to National Labor Relations Board (NLRB) policy, make the referral list available to members. Most of the unions with hiring halls did not post referral rules or have a standardized system for informing members of job openings or allowing them to sign up for work.

The 17 locals affiliated with the District Council of Carpenters have job referral systems that constitute "exclusive hiring halls" according to a U.S. Court of Appeals 1987 decision in the case of NLRB v. Carpenters Local 608, because the Carpenters' contracts require employers to obtain 50% of their workers from the union. Despite this ruling and the testimony of carpenters in several local unions, Charles Fanning, Director of Apprenticeship Training for the District Council of Carpenters, stated that the union did not have hiring halls, *per se*.

People of color and women, who are less likely to benefit from the "old boy network," tend to rely on hiring halls for job placement much more than white males. For example, the president of Operating Engineers Local 15, Thomas P. Maguire, testified that half of the people sitting in their referral hall in Queens on the day he testified were people of color, although they comprise only about 15% of the membership.

---

In Operating Engineers Local 14, about 30% of the members of color rely on the referral hall, compared with 20% of the white members. Consequently, people of color expressed dissatisfaction with the arbitrary administration of the hiring hall system, stating that business agents discriminate when selecting workers to refer to contractors.

While the collective bargaining agreements which apply to all union contractors state that contractors are ultimately the ones who hire and fire workers, many workers contended that union officials had a strong influence on this process. As several witnesses testified, when contractors are told by a union that the member being referred is a woman, they sometimes refuse. Many said the unions compound this problem by failing to challenge discriminatory refusals.

**14. A widespread pattern of disparate treatment and sexual harassment was faced by women in the skilled construction trades. More than 5% of the women in the entire unionized industry came forward to testify about hostile working environments. More than half testified anonymously due to the fear that disclosure of their identities would result in retaliation.**

Despite concerns about being blacklisted by employers, 46 of the 80 workers who testified (nearly 60%) were women. The hearings marked a dramatic change in the industry since the Commission's original construction hearings in the late 1960s, when testimony was restricted to racial discrimination. The turnout by women was overwhelming: exceeding 5% of the less than 800 female journeypersons, apprentices and trainees in the skilled construction trades. More than half of the women (26) testified anonymously, speaking from another room through a voice-distorting device, because of the fear that they would be identified and targeted for retaliation. Several mentioned receiving death threats because of the decision to testify. More than a dozen female workers did not identify their trade, much less their union, fearing that even such general information would threaten their anonymity, because of the scarcity of women in the trades.

---

While many of the discriminatory practices described by women apply to people of color as well, sexual harassment in the construction trades is directed almost exclusively at women. Virtually every one of the 47 women who testified stated that she had experienced sexual harassment on the job on at least one occasion. For most women, it is an ongoing situation which varies only in its severity. In many unions, women are not able to seek redress for harassment because the shop steward or foreman is unsympathetic or, in some cases, is the perpetrator. When the harasser was a supervisor, the women were faced with the option of tolerating the abuse, or confronting the harasser at the risk of being laid off or fired. Women depicted various incidents:

*At one job, the general foreman had a crush on me. He would come to where I was working about twenty times a day and stare at me and ask me why I was working so hard. After three months, he must have felt rejected because he did a 180-degree turn, became verbally harassing, supervising my work with a magnifying glass.*

*My boss would make demeaning sexual jokes and remarks like "go up the stairs first because I want to look at your ass."*

*At the end of one work day, I was alone in the changing area when the foreman came in angry and drunk. He stuck his hand inside my outer sweatshirt. He said, "You're gonna have to learn a thing or two if you're gonna stay in this business." He took his hand from around my waist and grabbed me around the neck and pulled me towards him like he was going to kiss me.*

*The contractor held out the check and I reached for it, and then he put it behind his back and told me I had to see him later on Friday night in order to get paid. Whenever I was alone with him, he would try to fondle me.*

In many instances, sexual harassment was combined with racist insults, as indicated by the following remarks:

*The foreman's son, with whom I was working, said "We did not want to hire you. We were told that we had to hire a nigger woman. If we had to hire a woman, at least we wanted to hire a white woman and not just a nigger." The shop steward said, "Just because you're black and a woman, don't think you have any rights here. Why don't you just get the fuck off the job?"*

---

Numerous women described having to contend with male co-workers who touched their breasts or buttocks, regularly made sexually suggestive remarks, exposed themselves, urinated, and even masturbated in front of them. In several instances, women were threatened with physical violence.

Many women testified that there were no separate changing rooms or bathroom facilities for women on the job. The lack of a uniform practice or policy regarding such facilities placed women in the position of having to negotiate the issue with the foreman or "minority coordinator" each time they were employed at a new site. Some decided to improvise rather than confront contractors or union representatives who, in practice, were unsympathetic to their situation:

*There was a shanty set up for the men. There was no shanty for the women. I was the only woman on the job. I made it my business to make it to work ten minutes before the foreman appeared. I took the initiative to get a lock put on the foreman's shanty. They didn't like this at all. They said I showed too much initiative and that I had no business being on the job, and that I should be somewhere in somebody's office instead of being on the job working with a bunch of men.*

*The lack of bathroom and changing facilities for women is a constant problem. When there is a portable toilet designated for women, the men will frequently use it. On one occasion when a woman complained about a man who insisted on using the woman's bathroom, the shop steward refused to intervene. The men had shanties on all of the jobs. I had to find my own place to change, which takes time away from work or after work. When I did have a shanty [on one job], the men got jealous, came peeking in, left behind pornography. There is no one to complain to about this. The foreman doesn't care.*

Raising the issue of separate shanties and bathroom facilities for women sometimes caused a woman to be labeled a trouble-maker. In some cases, women said they built their own shanties just to have somewhere change their clothes. Risking disciplinary action, some women were forced to go off-site to use a bathroom at a nearby restaurant or store.

The hostile working environment facing women in the trades can take other forms as well. Most women who testified noted the pervasive presence of pornography, as well as sexually explicit and hostile-to-women graffiti on the walls at work sites. These

---

images serve as encoded messages, constantly reminding women that they are trespassing on male turf. Other women cited examples of harassment including theft of their clothes or tools, or actual sabotage of their work. The aim of all these hostile activities is to create the impression that women are incompetent and more trouble on a job than they are worth.

While the contractor is ultimately responsible for creating a working environment free of all forms of sexual harassment and discrimination, unions have a responsibility to address the issue as well, through their representatives, such as shop stewards and foremen.

Joint contractor-union apprenticeship programs can set a tone which states that this behavior is unacceptable. However, as several women testified, the JAC instructors let workers know the reverse—that it is completely acceptable:

*My [apprenticeship] teacher tells a lot of sexist jokes, and has used graphic sexual terms to describe equipment in his lectures. The point of the jokes is to put women down or to humiliate women. Easy jobs in my trade are referred to as "tit jobs." If something needs a slight adjustment, it is referred to as being a "cunt hair off."*

*In apprenticeship classes, they taught us to remember the color coding for transistors by saying "bad boys rape young girls, but Violet gives willingly."*

The impact of this constant barrage of overt misogynist language and behavior, along with other acts of discrimination, has a strong and negative psychological impact on women in the construction industry. A number of women testified that they sought therapy to deal with symptoms of stress, low self-esteem, generalized anxiety and depression—and often had to pay for treatment out of their own savings:

*It got to a point where I hated to go to work. I was depressed, and I started having nightmares. I started crying as soon as the alarm went off.*

*Dealing with the feeling of isolation and constant assaults on your self-esteem is very difficult. I am in therapy myself, and I think the union should pay for it.*

A number of women testified that after years of apprenticeship training, they decided to leave the industry and start a new career because of limited employment opportunities and pervasive sexual harassment in the construction trades.

---

*I know that resigning my job was not a good move for my career, but it was necessary for my sanity. Quitting was my only way of fighting back, like it is for many other women.*

*I found out that for women, the end of your apprenticeship is the end of your career. I feel disgusted. I wasted four years. I could have been in college.*

The low representation of women in the trades reinforces their marginal status on the job site, making it easier for men to harass them, and less likely that supervisors will take remedial measures to ensure equal treatment. While many women stated that the industry should institute a code of conduct, as well as educate and sensitize men to the issue of sexual harassment, the overwhelming consensus was that the best way to reduce sexual harassment is to increase the number of women in the construction trades.

- 15. Disparities between whites and people of color, and between men and women, in work assignments, on-the-job training, earnings, and medical and vacation benefits in the skilled construction industry were common. Contractors and unions share responsibility for these conditions.**

#### **Work assignments and training**

The most striking commonality between the women and people of color who testified was that, unlike white males, they were not given mentors or more experienced partners who could help them build upon their skills while working. Instead, many people of color and women testified that they were often assigned to work alone on menial tasks which wouldn't enlarge their range of skills, leaving them without the skills a journeyman in their trade must possess:

*Three of us were apprentices at the same time: a white man, a white woman and me [a Latina]. The male apprentice got to work with the most experienced mechanic so that he would learn the trade, while the two of us most often worked with each other and got assigned jobs like sweeping, dusting or getting lunch.*



---

In a snowball effect, after years of “coffee duty” and laborer duties, people of color and women are considered less desirable employees by contractors. This is especially true in the case of women. Men are discouraged from developing mentor relationships with women, and those who do are subject to sanctions.

*I was ordered off a machine by a superintendent while I was being willingly taught by the driver.*

*A non-company operator asked by boss if I, a union member, could learn on his machine. The boss said he would fire this man if he let me even sit in a machine, let alone teach me.*

While some people of color and women complained that they were not given an opportunity to learn their trade, others claimed they sometimes received dangerous assignments or were set up to fail with complicated tasks, without the proper instruction, equipment or staff support.

*I was assigned dangerous jobs such as walking on an outside wall as high as 16 floors without a safety line. I [a female] was the only person asked to perform that task.*

*My foreman would send me up on a scaffold five stories high in the rain to tighten bolts without a life jacket or safety belt.*

*I was working on an elevated train station in the cold and rain, late at night, [with] no light, [and] supposedly [on] a dead track. Half was dead, half was not. 600 volts DC. I fell, hurt my hand.*

*I worked with a mechanic on a wiring job. He told me to hook up two different colored wires. I knew that it was incorrect but I did it because I thought I had to do what I was told. The foreman saw the mistake and rotated me to the Bronx.*

Supervisors often assign people of color and women unpleasant tasks—whether too menial, too complicated or deliberately dangerous—in order to send a message that they are not welcome in the trades. People of color and women have to prove they are exceptional if they are to survive in the trades. Their mistakes are used as an excuse for a layoff by the contractor or, in some cases, dismissal by a joint apprenticeship program.

---

*I [a woman] was put on 90-day review because I had gotten a bad report from Pride Electric saying "needs constant supervision" and "low production." [A year later] I was terminated from the apprenticeship program and told to get a job at McDonald's.*

The unions are notified of a worker who is laid off for being "unproductive" or "in need of supervision." Such workers have to write a letter of explanation to the referral hall before they can be referred for a new work assignment.

*There was no material on the job. I made up some extension cords and some lights. Later that day, the foreman came back and says, "this is all you did?" I was laid off. I was told to write a letter explaining what happened.*

Given that contractors and unions jointly control the economic livelihood of workers, there is always a potential for abuse of the power to hire and fire workers for reasons unrelated to their work performance. In fact, the parceling out of work assignments by hiring halls and contractors, and the laying off of workers as the workforce on a site is trimmed, is a very politicized process. People of color, women, and dissident whites have all been targeted for such treatment.

Workers who bring discrimination charges, or speak up on behalf of the rights of other workers, or challenge union leadership, sometimes find themselves targeted for other forms of harassment. The overall intent of this retaliatory behavior is to demoralize workers and force out "undesirable" members. The harassment can take the form of work assignments far from home, threats, or acts of violence.

*Whenever you do something that [contractors] don't particularly like, you get a tour of the city, which means you'll get transferred every other day or every week, whether it be Queens, Manhattan, Brooklyn, the furthest from your home as possible to discourage you from breaking their rules.*

*At one company, I tell the boss the material they use is awful for the men's eyes. It burns. The next minute, I'm fired. They had to hire me back because they fired me the wrong way. Now they are threatening to throw me out the window at Trump Tower.*

*After running for office, I was blackballed by the union. A colleague was gunned down in front of his house for trying to organize minorities.*

---

## Ghettoized workers

Women and people of color contended that often they are “ghettoized” into federally funded construction projects. This occurs because there are numerical hiring goals for women (6.9%), more governmental oversight of the hiring of people of color, and no legal snags regarding employment of trainees. These jobs are less prestigious assignments than privately financed jobs.

*The union moves all the women through these [federal] jobs instead of bringing more women into the union. I know that without the quotas, I wouldn't have been hired, but once in, the quota hurts me because it's only on some jobs, usually industrial like transit, sewage, etc. So the training is limited and the health hazards are outrageous. White men don't stand for these assignments unless they are in big trouble with the union.*

Since people of color and women are often referred to a number of short-term jobs to meet an affirmative action plan goal, a practice known as “checker-boarding,” they tend to have the least site-specific seniority, and thus are the first to be laid off when the workforce is reduced. Many who testified said they believed that contractors and unions were both responsible for these practices.

## Disparities in earnings

According to a 1987 Port Authority study of the construction industry, in 1980, white electrical workers made \$5,500 more than their black counterparts, and \$7,500 more than Hispanic workers in their trade with comparable levels of education. The Commission's hearings revealed that these disparities are due to several factors:

- 1) Whites tend to work on unionized jobs, whereas people of color tend to be non-unionized and are paid less than the prevailing wage;
- 2) Whites receive more long-term assignments, working, on average, more hours per year than people of color; and
- 3) Whites tend to be given more opportunities for overtime than people of color.

*I came from Hong Kong three years ago. I was doing carpentry and masonry. We [Chinese-Americans] worked for seven hours per day and our wages were from \$4 per hour to \$8 per hour. I started working at Red Ball Construction in demoli-*

---

*tion. My wages started at \$9 an hour. FightBack told me I was supposed to get \$18 an hour. Another problem is San Ramo demolition. The black and Latino guys made \$6 an hour. They were given less than full-time work. The rest of the people, Italian people, were given 55 to 60 hours a week.*

*Various organizations are taking money under the table to put non-union workers on the job, paying them \$50 to \$60 a day instead of \$20 to \$40 an hour.*

*I shaped one job, Nativo, and the guy says "We have lots of jobs for you, but it's at \$7 an hour." The scale at that time was \$26 an hour.*

### **Disparities in vacation, health and pension benefits**

Many union medical benefit plans require members to work a minimum number of days or hours in a quarter, six-month period, or year in order to be eligible for health benefits. For example, Plumbers Local 2 requires members to work 70 days in a six-month period, according to union president Peter Salzarulo. In the District Council of Carpenters, members must work at least 1,000 hours a year to maintain their eligibility. In Local 40 of the Bridge, Structural and Ornamental Iron Workers, members must work 120 hours a month for the first four months, after which they need only work periodically in order to be eligible for benefits, according to Edward Cush, Local 40's Business Manager.

Because of long periods of unemployment, many people of color and women find that they haven't accumulated enough hours of work to become or remain eligible for medical and vacation benefits.

*You need to work about 1,000 hours in a year [in the District Council of Carpenters] in order to be eligible for benefits. You pay into the annuity, and into the apprenticeship program, through your work hours. You don't get that money back if you're not eligible for benefits.*

*As a result of not being wanted, I don't make the required hours annually, which is 900, to receive medical benefits. In the eight years I have been working in the field, I haven't received benefits. I had to go outside to pay to get benefits, yet my weekly salary goes toward the welfare fund, which is medical benefits for other carpenters.*

*If I am unemployed two or three times a year, then at the end of the year, when it comes time for vacation, they say you're not eligible for a vacation. So, two years in*

---

*a row they said I was ineligible for vacation. You have to make \$24,000 a year to be eligible for medical coverage. That's like six months worth of work, but they only give you three months worth of work. We are only making \$11,000, so there's no medical coverage. I was in a car accident and I have no medical coverage.*

Under more flexible benefit plans, a greater number of workers could be eligible for health and vacation benefits. However, some difficulties described by workers are the result of sloppy and indifferent procedures on the part of union and contractor officials. For example, people of color and women testified that they fell behind in their payment of dues because of long periods of unemployment, and lost their union membership and its attendant benefits.

*No one wrote me to inform me that my dues were in arrears. When I spoke to my business agent, I told him I would be willing to pay back whatever monies I owed them. I was told to write the executive board about my situation. The executive board denied my reinstatement because I had failed to pay my dues.*

Nearly a third of the Local 3 workers who testified mentioned being injured on the job and having difficulty getting the union to do the paperwork which would enable them to receive reimbursement or coverage of their medical expenses.

*I have been out on workers' compensation for two years due to herniated disks and pinched nerves. But [the union] refuses to pay my benefits. A judge ordered them to pay for physical therapy, and they were refusing. I'm a card-holding union member in good standing. They take my dues. But they don't compensate me for what is supposed to be coming back.*

*I got hurt when the foreman dropped a light bulb on me and then he never filed an accident report. I filed an accident report. [They claimed] nobody received it . . . The local refuses to pay my medical bills.*

*I had an accident which was witnessed. I told my boss who said he would try to get compensation. I mailed in receipts [but was never reimbursed].*

Numerous workers with injuries mentioned being laid off for absenteeism after taking one or more days off to see a doctor. Many were apparently not informed of the union's policy regarding notifying the union of work-related injuries.

---

*I was injured on the job [when the foreman drilled a hole through my hand]. I got about five stitches and stayed out for five days. I didn't file for compensation, and they laid me off for absenteeism.*

Mitchell Langbert, an expert on pension programs, noted that multi-employer pension plans in the construction industry tend to be defined benefit plans which are inflexible and which require minimum hours of employment before employees become eligible for benefits. In contrast, he noted that intermittent employees are better served by defined contribution plans (*i.e.*, 401K, money purchase) which take into account the employee's financial contribution to the pension plan. Under such pension plans, employees would be eligible to receive some benefits regardless of whether they had worked steadily over a given period of time.

### **Lack of due process**

The prevalence of workers' grievances regarding work assignments, denial of vacation benefits, inadequate safety measures, lack of training, and other practices indicate a lack of due process in many of the unions. Many workers testified that they were not informed by their union local regarding union policy with regard to numerous basic procedures. In some unions, workers who take the initiative and ask for a copy of the union's constitution and by-laws are regarded suspiciously.

Workers don't have confidence in the grievance resolution process because many of the officials to whom they are told to direct complaints (shop stewards, foremen, executive officers in the union) have power over their employment or working conditions. Workers who assert their rights by filing grievances concerning alleged unfair practices are vulnerable to retaliation (*i.e.*, harassment, assignment to solitary and unpleasant tasks, denial of access to jobs, or extended lay-offs).

As a result, many workers try to settle their complaints with the union informally rather than file a formal grievance and experience possible repercussions.

*I tried to apply for a position that had become available, but the shop steward responded that I was not qualified, even though I had my license and a year's experience. I went to file a grievance, but was persuaded by the union to meet informally with business representatives.*

- 
17. **State and municipal affirmative action plans have been subjected to stricter "scrutiny" standards by the U.S. Supreme Court as a result of the decision in City of Richmond v. Croson. The testimony and statistics gathered for this report demonstrate a history of racial discrimination in employment in New York's construction industry, as required under these standards.**

Several legal experts testified that the Supreme Court ruling in City of Richmond v. Croson does not preclude the development of race-based affirmative action plans by municipalities. New York City could develop such a plan, covering all city contracts, if it were narrowly tailored to address discriminatory practices which have been identified. Race-neutral methods of increasing the representation of people of color in the construction trade must be considered before resorting to race-conscious plans.

It is clear both from testimony and materials supplied by unions and contractors that people of color are still significantly underrepresented in the memberships of virtually every union. This fact provides strong evidence of discrimination by unions and joint union-/contractor-administered apprenticeship programs. By limiting the pool of skilled workers of color developed by apprenticeship programs, unions and contractors act as equal partners in practices which ultimately affect the racial composition of the available skilled workforce.

Contractors set the tone for equal opportunity in the industry in many ways, particularly by assembling the work crews which are ultimately organized by trade unions. They often fail to meet the employment goals established by federal and local agencies, but somehow have always have been able to demonstrate "good faith efforts." Although contractors were unwilling to come forward and testify at the hearings, evidence exists to indicate that they share responsibility for discrimination within the industry.

Consequently, the material gathered through these hearings, and the data submitted by the unions and joint apprenticeship committees, provides a basis for developing a race-conscious affirmative action plan, encompassing remedial goals and timetables for each of the construction trades in New York City. Such goals and timetables

---

cannot be implemented by executive order. Former NYC Mayor John Lindsay's Executive Order 71, issued in the early 1970s, led only to court challenges. Two decisions by the courts, Broderick v. Lindsay in 1976 and Fullilove v. Beame in 1979, both issued by the Court of Appeals, held that the Mayor lacked the authority to impose goals and timetables without enabling legislation, such as the City Council might pass.

## **Recommendations**

- 1. The New York State Department of Labor must monitor apprenticeship programs more closely to ensure that entry requirements and selection criteria and procedures are being implemented in a nondiscriminatory manner.**

The New York State Department of Labor (NYSDOL) has abdicated its responsibility for monitoring the recruitment, enrollment and quality of training for women and people of color in the construction industry. Despite the failure of joint contractor- and union-administered apprenticeship programs to recruit women and people of color in proportion to their workforce availability; to conduct unbiased selection procedures; to meet NYSDOL enrollment goals; and to provide classroom instruction which is free of sexual bias, the NYSDOL has never once de-certified a joint apprenticeship program for failure to meet minimum requirements.

NYSDOL must do more to ensure that the joint union and contractor apprenticeship programs recruit a greater number of women and people of color, and accept all qualified applicants. NYSDOL has set realistic goals for "minority" enrollment in each joint apprenticeship program, based on the demographic composition of the program's geographic jurisdiction. Even so, people of color often are enrolled at only between 50% and 75% of the NYSDOL goal.

With regard to women, NYSDOL has been more negligent in its enforcement efforts. The agency must develop realistic goals for female participation in joint apprenticeship programs, and actively enforce compliance. The current goal range tends to be over 40%. Given that women comprise only 3.4% of all apprentices in the skilled trades, one must conclude that these goals are not based on realistic expectations,



---

and that contractors and unions know that NYSDOL does not take seriously the issue of female enrollment.

In addition, NYSDOL must keep more extensive records on the race and gender composition of applicants for apprenticeship programs, and analyze disparities in application, rejection and drop-out rates, as well as in on-the-job training hours when evaluating programs for re-certification.

**2. Unions and contractors should expand joint apprenticeship programs to achieve the apprentice-to-journeyperson ratio stated in collective bargaining agreements.**

None of the unions have a sufficient number of apprentices to achieve the apprentice-to-journeyperson ratio stated in collective bargaining agreements. The stated ratio for Sheet Metal Workers Local 28 is 1-to-4, but the actual ratio in the union is 1-to-8. For Operating Engineers Local 15, the stated ratio ranges from 1-to-4 to 1-to-6, but the actual ratio is closer to 1-to-160. The District Council of Carpenters has significantly increased the number of apprentices in its joint apprenticeship program from 900 in 1978, to over 3,000 today. Other unions should follow this lead.

Imbalances should be corrected by recruiting and enrolling more apprentices, and requiring contractors to employ them at stated ratio levels. This would provide more employment opportunities for ALANA and female apprentices without denying white apprentices similar employment opportunities.

**3. The City of New York should create an apprenticeship program and corresponding job titles in city government to provide training to persons seeking entry-level positions in the skilled building trades.**

The City of New York, as an employer, must take steps to ensure that it provides more opportunities for women and people of color seeking employment in the estimated 4,000 building trades positions existing in Mayoral agencies such as Transportation, Sanitation, General Services, Environmental Protection, Parks, Ports, Police, Fire, and Corrections, as well as the many non-Mayoral agencies such as the Housing Authority, Health and Hospitals Corporation, and Board of Education.

---

To institute the proposed expanded program, the City must seek union cooperation. Since virtually all current apprenticeship programs are administered jointly by employers and unions, the City should model its program closely on the existing structure, with prevailing wages, fringe benefits, on-the-job training, and classroom instruction requirements parallel to those utilized in private industry. The City should negotiate with the unions to utilize their apprentice training facilities and instructors. Charles Fanning, Director of Apprenticeship Training for the Carpenters Union, and Francis McCardle, Managing Director of the General Contractors Association of New York, each expressed support for City apprenticeship programs. (Mr. Fanning called for expanding "Project Pathways," a NYC School Construction Authority initiative which offers apprenticeship training to disadvantaged people. Currently, many contractors on School Construction Authority projects are exempt from the program). Priority in creating such a program should be given to the largest trades, such as carpenters, electricians, plumbers and others, since trades with relatively few journey-person titles in city government would not warrant this initiative at the outset.

**4. Section 220 of New York State's Labor Law must be amended by the state legislature to allow trainees under the New York Plan to work on city- and state-assisted construction sites at apprentice wages.**

The New York Plan for Training has been rendered inoperable by the *Monarch* ruling which states that trainees must be paid journey-level wages on state- and city-assisted projects. Section 220 should be amended to allow trainees to work on state- and city-assisted sites. A "sunset" provision could be included in the amendment to allow trade-specific training programs to be dismantled once apprenticeship programs come into compliance with numerical goals for women and people of color. The Governor and the State Department of Labor, neither of whom has been supportive of the New York Plan, must endorse this change. The New York City Council must pass a resolution calling on the state legislature to amend Section 220 to this effect.

These efforts should not undermine legitimate efforts to pressure unions and contractors to enroll a greater number of apprentices than they do currently, and admit all qualified women and people of color so that the New York Plan would eventually

---

become unnecessary. Until this occurs, the New York Plan should be preserved and its shortcomings corrected.

- 5. Standardized rules should be developed by the City of New York in order to govern job referrals through union-run referral halls in a more accountable manner.**

Every referring organization must be required to adopt written rules which describe the policies, rules and procedures governing the referral system which it employs. All referral rules will be required to contain a nondiscrimination clause, and describe the method by which applicants register their availability; criteria used to rank applicants for job referrals; identifying information of those on the referral list; information about jobs available and those referred to jobs; the method by which applicants are notified of job referrals; and the method by which the job referral information and rules will be distributed and posted. These practices should be codified as rules and regulations, violations of which should be enforceable in the New York State Supreme Court.

- 6. The New York City Comptroller's Office and the U.S. Labor Department's Wage and Hour Division should conduct regular audits of contractors on city- and federally-assisted construction projects respectively, to determine whether significant disparities exist between white and ALANA male and female workers with comparable skills and experience, with regard to hours worked, pay scales, overtime and medical benefits.**

Testimony included a number of allegations that white workers were employed on worksites and paid journey-level wages though they never attended joint apprenticeship programs, while people of color often were paid less than the appropriate scale relative to the number of years of apprenticeship training they had completed. (Apprentice wages vary depending on the number of years of apprenticeship training completed, in accordance with collective bargaining agreements).

---

The Comptroller's Office regularly must audit union membership rolls and contractor payroll records on city-assisted projects to determine whether there exists a disparity in pay scales; in health, vacation and pension benefits; and in overtime hours worked by whites and persons of color, and by men and women. Where significant disparities exist, offending contractors should be fined and, if warranted, barred from the bidding list.

- 7. Union officials and contractors should negotiate more comprehensive health plans with insurance carriers so that all workers maintain their benefits, even when discrimination results in their working fewer hours than white workers.**

Because of discriminatory referral practices, many women and people of color don't work enough hours quarterly or annually to retain their health insurance and pension eligibility. Unions should negotiate with appropriate private entities (*i.e.*, insurance companies, contractors, etc.), through the collective bargaining process if necessary, for defined contribution plans which provide health and pension benefits that are more favorable to short-service employees.

In addition, the imbalance of work distribution must be addressed. A high unemployment rate currently exists within the industry (and has a heavier impact on women and people of color), while at the same time, many employed workers receive substantial hours of paid overtime. Given that it is currently more expensive to hire a new worker than to pay overtime to the existing workforce—because of the cost of fringe benefit programs—alternative benefit programs which do not create disincentives for hiring additional workers must be designed. If contractors and unions don't explore alternatives, appropriate legal remedies should be considered under Title VII of the Civil Rights Act.

- 8. Contractors and unions which do not take responsibility for preventing sexual harassment on construction sites by instituting prevention programs should incur fines and punitive damages.**

The Commission on Human Rights has drafted guidelines pertaining to sexual harassment in employment (see Appendix C) which set forth a range of measures

---

which all employers covered by the New York City Human Rights Law must, at minimum, implement. The Commission contends that if these guidelines are followed, a contractor or union can prevent discrimination and harassment; develop and distribute a sexual harassment prevention brochure; implement a training program for all union members (including apprentices and journeypersons); educate members about what constitutes sexual harassment; and establish procedures for filing complaints and taking remedial action.

A standard sexual harassment policy statement must be included in each construction contract, and be posted on job sites. The Division of Labor Services should conduct site visits, including confidential interviews with female workers to determine whether measures to prevent sexual harassment are being employed by contractors. These visits also should ensure the availability and adequacy of bathroom and changing facilities for women.

The New York State Department of Education, which oversees apprenticeship curriculum, should work with the New York State Department of Labor's Joint Apprenticeship Council to require joint apprenticeship committees to devote three hours of instruction per 144-hour year to a guest facilitator to train workers about appropriate boundaries in a mixed-sex work environment. Workers should be notified that those who fail to attend will not be referred for work until the course is completed. Contractors also must honor the training program.

- 9. The high attrition rate of women and people of color in the construction trades must be addressed by unions through more effective membership assistance programs. Construction unions should provide all members with a minimum set of services which meet basic work-related needs. Unions should conduct a needs assessment of their membership to determine if more effective intervention can address personal problems which contribute to members dropping out of apprenticeship programs.**

Unions should develop programs which provide members (trainees, apprentices and journeypersons) with basic supportive services, including counseling, to reduce the

---

high attrition rate among women and people of color. These services should be available to all union members who request them.

Currently, services provided by unions to dues-paying members vary greatly, but the following should be required: all members should be provided with training on their rights and responsibilities as stated in the union's constitution and by-laws; on union and contractor policies and practices in areas such as job referral procedures, as well as on workers compensation, codes of conduct on the job, health and pension benefits, and other relevant policies.

Unions in each of the construction trades should also conduct a needs assessment survey of their memberships to determine the demand for affordable day care, mental health services, drug and alcohol treatment, and training in non-violent conflict resolution techniques. While it is not clear whether the absence of such services has a disparate impact on women and people of color, the unions should determine this fact by conducting confidential membership surveys.

If a demand for such services is found to exist, appropriate services should be provided for dues-paying members at minimal or no charge. Since the improved mental and physical health of the construction workforce is in the interests of unions and contractors, added costs should be addressed through the collective bargaining process.

- 10. Federal, state and city contract compliance agencies must find more comprehensive methods for developing ALANA and female availability figures and must update them more frequently. Based on the revised data, New York City must create an affirmative action plan that includes goals and timetables for ALANA and female employment in the construction trades. In accordance with prior court rulings, goals and timetables must be approved legisla-**

---

**tively. The City Council must act to make an integrated workforce in the construction industry a reality.**

In order to increase employment opportunities for women and people of color in the construction industry, the City must ascertain the current availability of women and people of color in each construction trade in New York City, and replace Executive Order 50 with an affirmative action plan that includes goals and timetables for hiring women and people of color. The assessment of availability must at least begin with 1990 Census data, but should adjust for the problems discussed earlier, which suppress the numbers of trained people of color and women defined as "available." The City Council must introduce legislation authorizing the Division of Labor Services to create an affirmative action program for city contracts, encompassing goals for the percentage of total hours worked by women and people of color, and timetables for attaining these goals.

The U.S. Department of Labor's Office of Contract Compliance Programs must revise its employment goals immediately, using adjusted 1990 Census data, for federally assisted construction projects. The New York City goals established by the OFCCP and DLS should be similar, if not identical, to these goals.

**11. The New York City Human Rights Law must be strengthened to enable plaintiffs in discrimination cases to collect punitive damages and attorney fees, as is the case in civil court proceedings.**

The current Human Rights Law, which went into effect on September 16, 1991, gives plaintiffs the power to seek compensatory damages from contractors or unions found to discriminate, but does not award punitive damages or allow for reimbursement of plaintiffs in successful litigation. The New York City Human Rights Law should be amended to afford plaintiffs in administrative tribunals the same remedies as are available to plaintiffs in civil court actions, namely the right to collect punitive damages and attorneys' fees.

- 
- 12. The Mayor and Governor must move aggressively to implement these recommendations through a taskforce composed of members from industry associations, advocacy groups, and all levels of government.**

First, the taskforce must be empowered to increase immediately the resources of the agencies which monitor compliance, such as New York City' Commission on Human Rights and Division of Labor Services, and New York State's Department of Labor and Division of Human Rights so they can carry out their mandates effectively. Second, it must initiate and shepherd this report's recommendations, which are designed to plug up the loopholes in, and add new teeth to, anti-discrimination laws and affirmative action policies at all levels of government. Finally, the taskforce must remain intact over the long term in order to continue to coordinate these changes and to ensure that progress toward equity in construction employment is not halted.



---

## **APPENDIX A**

In 1990 and 1991, the Commission and the Division of Labor Services sent letters to sixteen local unions, asking them to participate in the hearings by testifying, and by completing and returning a questionnaire. Seven of the locals cooperated, but nine did not, some ignoring as many as three written requests. Of the nine, the Commission subpoenaed six locals, along with their joint apprentice committees, to provide both documents and testimony. Two of the unions, Locals 40 and 361, moved to quash the subpoenas, but were ordered to comply by the New York State Supreme Court.

### **Cooperating unions:**

- 1) The New York District Council of Carpenters completed and returned the Commission's questionnaire. Charles P. Fanning, Director of Apprenticeship Training, testified on April 26, 1990.
- 2) Local 1 of the Elevator Constructors Union did not return the questionnaire. John B. Green, President, testified on April 26, 1990. As part of Mr. Green's testimony, he stated that he never received the Commission's questionnaire.
- 3) Local 3 of the International Brotherhood of Electrical Workers completed and returned the questionnaire. Thomas Van Arsdale, President, testified on April 26, 1990.
- 4) Local 2 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada completed and returned the questionnaire. Peter N. Salzarulo, President, testified on July 10, 1990.
- 5) Local 14-14B of the International Union of Operating Engineers completed and returned the Commission's questionnaire. Thomas Gleason, Director of Training, testified on July 10, 1990.
- 6) Local 638 of the Enterprise Association of Steamfitters completed and returned our questionnaire. Edward Malloy, President, testified on July 10, 1990.
- 7) Local 363 of the Teamsters Union was represented at the hearings by Thomas J. Carlough, Director of Apprenticeships and Training, on April 3, 1991.

---

**Unions which were subpoenaed:**

- 1) Local 1 of the United Association of Plumbers and Gas Fitters did not respond to the Commission's requests. Both the Local and the Joint Apprenticeship Committee were subpoenaed and subsequently submitted the requested documents. Joseph Santoro, Director of Apprenticeship Training, testified on March 6, 1991. As of November 1992, because of scheduling problems, no one had testified on behalf of the Union.
- 2) Local 15/15-A-D of the International Union of Operating Engineers did not respond to requests. Both the Local and the Joint Apprenticeship Committee were subpoenaed and subsequently submitted the requested documents. Joseph Conaty, Director of the Apprenticeship Program and member of the Union's Executive Board, testified on May 16, 1991. Thomas P. Maguire, President and Business Manager, testified on November 13, 1992.
- 3) Local 28 of the Sheet Metal Workers Union did not respond to requests. Both the Local and the Joint Apprenticeship Committee were subpoenaed and subsequently submitted the requested documents. Joseph Casey, Recording Secretary and Director of Apprenticeship Training, testified on behalf of Arthur Moore, President, on May 13, 1991. Murray Liebowitz, Administrator of Training, testified on May 17, 1991.
- 4/5) Locals 40 and 361 of the Structural Iron Workers Union did not respond to requests. Both the Unions and the joint apprenticeship committee (shared by the two Locals) were subpoenaed. The unions moved to quash the subpoenas but were ordered to comply by the State Supreme Court (the ruling was upheld by the Appellate Division of the State of New York). The Unions and the JAC then provided the subpoenaed documents. Edward J. Cush, Co-Chairman, Joint Apprenticeship Committee, Locals 40 and 361; Local 40 union official James Mullett, Business Manager and Financial Secretary-Treasurer; Local 40, Co-Chairman, Joint Apprenticeship Committee, Locals 40 and 361; and John G. Kelly, Coordinator, Joint Apprenticeship Committee, Locals 40 and 361, testified on November 4, 1992.

- 
- 6) Local 580 of the Ornamental Iron Workers Union did not respond to requests. Both the Union and the joint apprenticeship committee were subpoenaed and subsequently submitted the requested documents. No representative of Local 580 agreed to appear at the hearings until after the ruling on the motion by Locals 40 and 361 to quash the subpoenas. After the subpoenas were upheld by the Appellate Division, Brian Kaufman, President, testified on behalf of both the Union and the JAC on November 4, 1992.

**Unions which did not appear or submit information:**

- 1) The District Council of Iron Workers did not respond to three written requests.
- 2) Local 46 of the Metallic Lathers & Reinforcing Ironworkers Union did not respond to a written request.
- 3) Local 371 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada did not respond to a written request.

**Contractor associations invited to attend:**

In 1990 and 1991, the Commission and the Division of Labor Services sent letters to four contractors' associations, asking them to participate in the hearings by testifying, and by completing and returning a questionnaire. To those contractor associations that failed to respond to the first letter, the Commission sent a follow-up letter requesting only the completion of the questionnaire. Of the four contractor's associations contacted, one complied.

- 1) The Building Contractors' Association did not respond to written requests.
- 2) The Contractors' Association of Greater New York did not respond to written requests.
- 3) The General Contractors' Association completed and returned the Commission's questionnaire. Managing Director Francis X. McArdle testified on March 6, 1991.
- 4) The New York Electrical Contractors' Association did not respond to written requests.

---

**Additional contractors' associations invited to submit information:**

In 1991, the Commission and the Division of Labor Services sent letters to four additional contractors' associations, asking that they complete and return a questionnaire. No follow-up letter was sent to those associations which did not respond. Of the four contacted, one complied.

- 1) The Association of Contracting Plumbers did not return the questionnaire.
- 2) The Association of Electrical Contractors, Inc. completed and returned the questionnaire.
- 3) The Mechanical Contractor's Association of New York State did not return the questionnaire.
- 4) The Sheet Metal & A/C Contractors' Association did not return the questionnaire.

**Contractors invited to attend:**

In 1990 and 1991, the Commission and the Division of Labor Services sent letters to ten contractors, asking them to participate in the hearings by testifying and providing a number of documents concerning their organization. Because of time constraints and the focus of the hearings, no follow-up letters were sent to non-responding contractors. Of the ten contacted, two complied.

- 1) Atlas Gem Erectors Company, Inc. did not respond to a written request.
- 2) Cipico Construction, Inc. provided the information requested, but, as of November 1992, no representative was scheduled to attend the hearings.
- 3) Empire City Iron Works did not respond to a written request.
- 4) Forest Electric Corporation provided the information requested. Mr. Hirsch, Secretary of the Joint Industry Board, and representing Forest Electric, testified on July 11, 1990.
- 5) Hydraulic Plumbing & Heating Corp. did not respond to a written request.

- 
- 6) Kerby Saunders-Warkol, Inc. did not respond to a written request.
  - 7) Nastasi White Inc. did not respond to a written request.
  - 8) Otis Elevator Company did not respond to a written request.
  - 9) Triangle Sheet Metal Works, Inc. did not provide the information requested, and declined to attend the hearings, citing its compliance with requirements imposed on Local 28 of the Sheet Metal Workers Union by Federal Court Order in 1979.
  - 10) Wener-Dahnz Company did not respond to a written request.

---

**APPENDIX B**

<b><u>WITNESS</u></b>	<b><u>TITLE/AFFILIATION</u></b>	<b><u>DATE/CAPACITY</u></b>
Sally Hernandez-Pinero	Deputy Mayor for Finance, Office of the Mayor, NYC	3/12/90 - Public official
Justice William Booth	Former Commissioner, NYC Commission on Human Rights	3/12/90 - Public official
Dennis deLeon	Commissioner/Chair NYC Commission on Human Rights	3/12/90 - Chair.
Oliver Gray	Director, NYC Office of Labor Services	3/12/90 - Public official
Dr. John E. Brandon	Former Commissioner, NYC Commission on Human Rights	3/12/90 - Chair.
Florence Moore	Executive Director, Nontraditional Employment for Women	3/12/90 - Advocate
Miriam Friedlander	NYC Councilperson	3/12/90 - Public official
James Houghton	FightBack	3/12/90 - Advocate
Ruth Messinger	Manhattan Borough President	3/12/90 - Public official
Roger Waldinger	Associate Professor of Sociology, CUNY	3/12/90 - Expert
Susan D'Allesandro	Former Chairperson, Local 30, International Union of Operating Engineers	3/12/90 - Worker/Advocate
Samuel Lopez	President, United Third Bridge, Inc.; Journeyman, Local 3, IBEW	3/12/90 - Worker/Advocate
Wing Lam	Executive Director, Chinese Staff and Workers Association	3/12/90 - Worker/Advocate

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Sarah Burns	Legal Director, NOW Legal Defense and Education Fund	3/12/90 - Advocate
Herman Benson	Treasurer, Association for Union Democracy	3/12/90 - Advocate
Judith Schneider	President, Association for Union Democracy	3/12/90 - Advocate
Samuel Rabinove	American Jewish Committee	3/12/90 - Advocate
Portia Walton	Former Shape Leader, Nontraditional Employment for Women	3/12/90 - Worker
Charles Calloway	Journeyman, Local 3, Inter- national Brotherhood of Electrical Workers; Exec. Officer United Third Bridge	3/12/90 - Worker
Feliciano Felix	Electrician, Local 3, International Brotherhood of Electrical Workers	3/12/90 - Worker
Shirley Hemmings	Journeyman Carpenter, Local 608, NYC District Council of Carpenters	3/12/90 - Worker
Mary Swinson	Electrician, Local 3, International Brotherhood of Electrical Workers	3/12/90 - Worker
James Brown	Member, Local 608, NYC District Council of Carpenters	3/12/90 - Worker
Tulio Porrata	Chairman, Latino Democratic Caucus of Bronx County	3/12/90 - Advocate

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Arnold Brown	Electrician, Local 3, International Brotherhood of Electrical Workers	3/12/90 - Worker
Richard Martinez	Electrician, Local 3, International Brotherhood of Electrical Workers	3/12/90 - Worker
David Martinez	Electrician, Local 3, International Brotherhood of Electrical Workers	3/12/90 - Worker
Leola Pitman	Laborer	3/12/90 - Worker
Clarence Elliot	Journeyperson Electrician, Local 76, International Brotherhood of Electrical Workers	3/12/90 - Worker
Jerome Meadows	Laborer; Member of FightBack	3/12/90 - Worker
Aubrey Mitchell	Member, Local 59 Masons and Tenders Union	3/12/90 - Worker
Gladys Lopez	Journeyperson Electrician, Local 3, IBEW; Member, United Third Bridge, Inc.	3/12/90 - Worker
Antonio Cancel	Journeyperson Electrician, Local 3, IBEW; Member, United Third Bridge, Inc.	3/12/90 - Worker/Advocate
Samuel Lopez	President, United Third Bridge, Inc. Journeyperson Electrician, IBEW	3/12/90 - Worker/Advocate
William Blackwell	Journeyperson Steamfitter, Local 638, Enterprise Association of Steamfitters	3/12/90 - Worker



---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Raymond Tirado	Laborer; Member of FightBack	3/12/90 - Worker
Michael E. Murphy	Journey person Carpenter, Local 17, NYC District of Carpenters	3/12/90 - Worker
Simabal Leites	Laborer; Member of FightBack	3/12/90 - Worker
Spencer Meeks	Journey person Carpenter, Local 17; Member of FightBack	3/12/90 - Worker
Anthony Clements	Carpenter	3/12/90 - Worker
Sarah Starret	Legal Intern, NOW Legal Defense and Education Fund	3/12/90 - Advocate
Tradeswoman A	Laborer	3/12/90 - Worker
Witness Audio A	Tradeswoman	3/12/90 - Worker
Chan Kam	Construction Worker	3/12/90 - Worker
Young Shi Lee	Construction Worker	3/12/90 - Worker
Ezekial Gray	Journey person, Local 28, Sheet Metal Workers Inter- national Association	3/12/90 - Worker
Eustus Mason	Member, Local 17, NYC District Council of Carpenters	3/12/90 - Worker
Joe Wright	Member, Local 48, Masons and Tenders Union	3/12/90 - Worker
L.B. Griffin	Minority contractor	3/13/90 - Contractor
James Rudd	Spokesperson, United Black Enterprise, Inc.	3/13/90 - Contractor

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Paul Henry	Brevard Construction Corp.	3/13/90 - Contractor
Michael Sabatel	Member, District Council 9, International Union of Painters	3/13/90 - Worker
Cynthia Long	Journey person Electrician, Former member, Local 3, International Brotherhood of Electrical Workers	3/13/90 - Worker
Witness Audio B	Union Carpenter, Local 531	3/13/90 - Worker
Alan Marshall	Electrician; Former Member Local 3, International Brother- hood of Electrical Workers	3/13/90 - Worker
Ray Lopez	Construction Worker, College student	3/13/90 - Worker
Sam Degans	Former Member, Laborers' Union (Formerly of Locals 48, 59, 6A, 18, and 29)	3/13/90 - Worker
Earl Galbreath	NY State Association of Minority Contractors; Westchester Minority Commerce Association; Black Workers and Contractors Assoc.	3/13/90 - Contractor
Claire Ervin	Foreman New York General Contractor	3/13/90 - Contractor
Tradeswoman E	Construction Worker	3/13/90 - Worker
Tradeswoman F	Trainee Electrical Worker	3/13/90 - Worker

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Tradeswoman G	Former Carpenter's Apprentice	3/13/90 - Worker
Witness Audio CL1	Journey person Electrician	3/13/90 - Worker
Debra Jones	Apprentice, Local 28, Sheet Metal Workers International Association	3/13/90 - Worker
Witness Audio A	Bricklayer	3/13/90 - Worker
Elaine B. Ward	Journey person, Local 2, United Association of Journeymen and Apprentices of the Plumbing and Pipe-Fitting Industry	3/13/90 - Worker
Audio XLA	Journey-level Tradeswoman	3/13/90 - Worker
Brenda Stokely	Former Employee, Nontraditional Employment for Women	3/13/90 - Worker
Anonymous E	Construction Worker	3/13/90 - Worker
Frank Hogan, Jr.	Apprentice seeking employment	3/13/90 - Worker
Anna Palmer	Former vocational school student	3/13/90 - Worker
Anonymous Witness 1	Union Laborer, Carlton Construction Co.	3/13/90 - Worker
Anonymous Witness 2	Electrician, Local 3, International Brotherhood of Electrical Workers	3/13/90 - Worker
Anonymous Witness 3	Construction Worker	3/13/90 - Worker
Dennis deLeon	Commissioner/Chair. NYC Commission on Human Rights	4/24/90 - Chair

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Pam Elam	Representing then-Comptroller Elizabeth Holtzman	4/24/90 - Public Official
Robert Easlim	Representing Virginia Field, NYC Councilperson	4/24/90 - Public Official
William Horsak	Representing Assemblyperson Hector Diaz	4/24/90 - Public Official
Susan Jennik	Executive Director Association for Union Democracy	4/24/90 - Advocate
Joyce Hartwell	AllCraft	4/24/90 - Advocate
James McNamara	NYC Department of Employment	4/24/90 - Expert
Frank Madison	Banana Kelly	4/24/90 - Advocate
Diana Autin	Former General Counsel, Office of Labor Services	4/24/90 - Expert
James Houghton	Harlem FightBack	4/24/90 - Advocate
Leroy McCullough	Member, Local 3, International Brotherhood of Electrical Workers; United Third Bridge	4/24/90 - Worker
David Otto	Deputy Director and Counsel, PREP, Inc. (Preparation and Recruit- ment Employment Program)	4/24/90 - Worker
Mary Scardina	Former member, Local 1298, Heavy Construction Laborers; denied entry to Local 138, Operating Engineers	4/24/90 - Worker

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Pat Sullivan	National Chair, PREP, Inc.	4/24/90 - Worker
Cheryl Smyler-George	Recruiter, PREP, Inc.	4/24/90 - Worker
Sarah Burns	Legal Director, NOW Legal Defense and Education Fund	4/24/90 - Advocate
Akil Luqman	Member, Union of Carpenters and Joiners, Nassau County	4/24/90 - Worker
Wing Lam	Chinese Staff and Workers Assoc.	4/24/90 - Advocate
Ken Kimmerling	Attorney, Puerto Rican Legal Defense Fund	4/24/90 - Advocate
Lola Snyder	Director of Education and Technical Assistance, Nontradi- tional Employment for Women	4/24/90 - Advocate
Samuel Lopez	President, United Third Bridge; Electrician, Local 3, International Brotherhood of Electrical Workers	4/24/90 - Worker/Advocate
Darryl Green	Managing Partner Darryl Green & Associates	4/24/90 - Expert
Charlotte Rutherford	Staff Attorney, NAACP Legal Defense Fund	4/24/90 - Expert
Gilbert Lopez	Former Member, Local 3, International Brotherhood of Electrical Workers	4/24/90 - Worker
Carlos Roman	Former Plasterer, NYC Housing Authority	4/24/90 - Worker

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Juan Colon	Member, Local 28, Sheet Metal Workers International Association	4/25/90 - Worker
Merrick Rossein	Associate Professor of Law, City University of Law, Queens College	4/25/90 - Expert
Virgil Hodges	Deputy Commissioner for Employment and Training, NYS Department of Labor	4/25/90 - Government
Donald Grabowski	Director of Employability Services, NYS Department of Labor	4/25/90 - Government
Richard Wong	Principal Employment Consultant for Testing, NYS Dep't of Labor	4/25/90 - Government
Lawrence Kunin	General Counsel NYS Division of Human Rights	4/25/90 - Government
Howard Sheffey	Director, Office of Equal Employ- ment Opportunity Development, NYS Department of Transportation	4/25/90 - Government
Esmeralda Simmons	Director, Center for Law and Social Justice of Medgar Evers College	4/25/90 - Advocate
Dr. Miriam Frank	Researcher of Union Democracy, Professor of Continuing Education New York University	4/25/90 - Expert
Suzanne Lynn	Chief of Civil Rights Bureau, International Brotherhood of Electrical Workers	4/25/90 - Government

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Cynthia Long	Journeyperson Electrician, Local 3, IBEW; President, Women in Construction	4/25/90 - Worker/Advocate
K.C. Wagner	Independent consultant on sexual harassment; formerly of Working Women's Institute	4/25/90 - Expert
Denice Holmes	Apprentice, Local 84 Stone Setters Union	4/25/90 - Worker
Barbara Trees	Member, Local 135, International Brotherhood of Carpenters	4/25/90 - Worker
William Shaw	Urban Affairs	4/25/90 - Advocate
Linda Leday	Carpenter	4/25/90 - Worker
Charles Fanning	NYC District Council of Carpenters Director of Labor Technical College and JAC	4/26/90 - Union
Susan D'Alessandro	Former member of Local 30; member of Women in Construction	4/26/90 - Advocate
Russell Pearce	General Counsel NYC Commission on Human Rights	4/26/90 - Chair.
Mitchell Langbert	Ph.D. candidate, Columbia Business School	4/26/90 - Expert
Dr. Simone Charlop	National Organization of Women	4/26/90 - Advocate
Altimond Clarke	Contractor, Rising Sun Construction & Realty Corp.	4/26/90 - Contractor

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Elvia Arriola	Doctoral candidate in American Legal History, NYU	4/26/90 - Expert
Thomas Van Arsdale	President, Local 3, International Brotherhood of Electrical Workers	4/26/90 - Union Official
Peter Dooley	Member, Local 608, affiliate of NYC District Council of Carpenters	4/26/90 - Worker
John Green	President/Business Manager, Local 1, International Union of Elevator Constructors	4/26/90 - Union Official
Lanere Rollins	Member, Teamsters Union	4/26/90 - Worker
Eileen Soloway	Civil Service Carpenter; member NYC District Council of Carpenters	4/26/90 - Worker
Edward Malloy	Member, Local 638, Enterprise Association of Steamfitters	7/10/90 - Union Official
Peter Salzarulo	President, Local 2, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry	7/10/90 - Union Official
Thomas Gleason	Director of Training, Local 14/14B, International Union of Operating Engineers	7/11/90 - Union Official
Joseph Hirsch	Forest Electric, Electrical Contractor	7/11/90 - Contractor
Donald J. Grabowski	Director of Employability Development, NYS Department of Labor	7/11/90 - Government



---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
Joseph Santoro	Director of Apprenticeship Training, Local 1, Plumbers Joint Apprenticeship Committee	3/6/91 - JAC Official
Gil Rivera	Attorney for Frank Panico, CIPICO Construction	3/6/91 - Attorney for Contractor
Francis Xavier McArdle	Managing Director, General Contractor Association of NY	3/6/91 - Contractor
Thomas J. Carlough	Director of Apprenticeship Program, Local 363, Teamsters Union	4/3/91 - JAC Official
Joseph Casey	Recording Secretary, Local 28 Sheet Metal Workers' International Association	5/13/91 - Union Official
Joseph Conaty	Director, Apprenticeship Program Local 15, International Union of Operating Engineers	5/16/91 - JAC Official
Robert Brady and Frank Petramalo	Counsel for Local 15, International Union of Operating Engineers	5/16/91 - JAC Attorneys
Murray Liebowitz	Training Administrator, Local 28, Sheet Metal Workers Joint Apprenticeship Committee	5/17/91 - JAC Official
William Rothberg	Counsel for Local 28, Sheet Metal Workers Joint Apprenticeship Committee	5/17/91 - JAC Attorney

---

<u>WITNESS</u>	<u>TITLE/AFFILIATION</u>	<u>DATE/CAPACITY</u>
James Mullett	Business Manager and Financial Secretary-Treasurer, Local 40, Bridge, Structural and Ornamental Iron Workers, Local 40	11/4/92 - Union Official
John G. Kelly	Coordinator, Joint Apprentice Committee of Bridge, Structural and Ornamental Iron Workers Locals 40 and 361	11/4/92 - JAC Official
Edward J. Cush	Co-Chairman, Joint Apprentice Committee of Bridge, Structural and Ornamental Iron Workers, Locals 40 and 361	11/4/92 - Union/JAC Official
Brian Kaufman	President, Local 580, Bridge, Structural and Ornamental Iron Workers; Trustee, Apprentice Joint Education Fund	11/4/92 - Union Official
Thomas P. Maguire	President and Business Manager, Local 15, International Union of Operating Engineers	11/13/92 - Union Official

---

## APPENDIX C

### NEW YORK CITY COMMISSION ON HUMAN RIGHTS SEXUAL HARASSMENT GUIDELINES

#### Introduction

These Sexual Harassment Guidelines are issued pursuant to Administrative Code Section 8-107 13(e) and (f). An employer found liable for sexual harassment based solely on the conduct of an employee, agent or person employed as an independent contractor, who pleads and proves that these Guidelines have been implemented and complied with at the time of the unlawful conduct, shall not be liable for any civil penalties or punitive damages which may be imposed pursuant to Chapter Four or Five of Title Eight of the Administrative Code. Further, the demonstration of compliance with and enforcement of these Sexual Harassment Guidelines shall be considered in mitigation of the amount of civil penalties to be imposed by the Commission pursuant to Chapter Four of Title Eight, or in mitigation of civil penalties or punitive damages which may be imposed pursuant to Chapter Four or Five of Title Eight and shall be among the factors considered in determining an employer's liability under Administrative Code Section 8-107 13(b) (3). If these Guidelines have not been followed by a respondent employer, the employer shall be ineligible to mitigate the imposition of civil penalties, punitive damages or avoid the imposition of liability pursuant to Chapters Four and Five by reason of Sections 8-107 13(e) and (f) of the Administrative Code.

The New York City Human Rights Law makes it unlawful for an employer to discharge an employee or to discriminate against an employee in the terms, conditions and privileges of employment because of that individual's sex. Pursuant to this mandate, sexual harassment in all forms is prohibited in the workplace and an "employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent." However, the Law provides that employers may mitigate or avoid liability for the conduct of an employee, agent or independent contractor by demonstrating that they established and complied with policies, programs and procedures for the prevention and detection of unlawful discriminatory practices. The purpose of these regulations is to establish a model policy which employers may use to implement sexual harassment policies at their work sites.

---

## **A. Statement of prohibited conduct**

All individuals have the right to work in an environment free from sexual advances, discriminatory intimidation, ridicule, and insult based on their sex. The employer, as well as every manager, supervisor and employee has an affirmative duty to observe the law. Those who engage in prohibited conduct must be subject to disciplinary proceedings and possible termination.

*Quid pro quo* sexual harassment, where employees are forced to accept sexual advances or lose their job, as well as the maintenance of a hostile work environment against one sex, are forms of prohibited conduct. For example, it is illegal for a person to subject any employee to unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

The acts underlying sexual harassment need not be sexual in nature or take the form of overt sexual advances. Prohibited harassment also may consist of intimidation and hostility toward an individual because of sex. Illegal behavior may be asexual, but directed at and motivated by animus against one sex, or it may consist of conduct that is more offensive or demeaning to one sex, although not expressly directed at a particular group or individual.

The most common image of sexual harassment is that of a female secretary who is propositioned by her employer, refuses and is fired. While this accurately reflects one common experience, sexual harassment can take many other forms. Examples of some of the conduct that would be considered sexual harassment, or related retaliation, are set forth below. These examples are provided to illustrate the type of conduct proscribed by the Code; the list is not exhaustive.

1. Physical assaults of a sexual nature, such as:
  - (a) Rape, sexual battery, molestation, or attempts to commit such assaults; and

- 
- (b) Physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, poking or brushing against another employee's body.
2. Conduct of a sexual nature which, whether intended or not, humiliates or offends a reasonable person, including:
- (a) Unwanted sexual advances or propositions; or sexually-oriented gestures, noises, remarks, jokes, anecdotes or comments about sexuality or sexual experience;
  - (b) Hazing or shunning that is based upon sex or is sexually oriented, or that is undertaken because a person has resisted or complained about sexual harassment, discrimination or retaliation;
  - (c) Soliciting an employee to engage in sexual activity;
  - (d) Preferential treatment or the promise of preferential treatment for submitting to sexual conduct;
  - (e) Detrimental treatment or the threat of detrimental treatment for failing to submit to sexual conduct; or
  - (f) Subjecting an employee to unwelcome sexual attention or conduct, or intentionally making performance of the employee's job more difficult, because of the employee's sex.
3. Sexual or discriminatory displays or publications anywhere in the workplace, such as:
- (a) The display of pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic; or
  - (b) Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning, or pornographic.

---

4. **Retaliation for sexual harassment complaints, such as:**

- (a) **Disciplining, changing the work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with, any employee because the employee has complained about or resisted harassment, discrimination or retaliation.**

The prohibited conduct described above is harassment of anyone at whom it is directed. Such conduct is also harassment of any other individual who is subjected or exposed to it, even if the conduct is not directed at the individual, as long as it creates or contributes to a discriminatory atmosphere. All types of work relationships and situations can spawn sexual pressure, with devastating economic and psychological repercussions. Often, sexual harassment involves relationships of unequal power, and contains elements of coercion—as when compliance with requests for sexual favors becomes a criterion for promotion. However, sexual harassment also may involve relationships among equals—as when a co-worker’s repeated sexual advances or demeaning verbal behavior has a harmful effect on an employee’s ability to work.

The following are examples of sexual harassment prohibited in the work environment. They illustrate that misconduct can occur at all levels of work relationships:

1. **A woman works at night and is fearful of the sexual propositions of a male co-worker who is the only other person working that shift.**
2. **A sales representative works for an employer who condones her being subjected to ogling, propositions or sexual remarks by clients.**
3. **A waitress is forced to wear a sexually revealing uniform and to tolerate sexual remarks made by patrons.**
4. **A female construction worker’s access to a restroom is purposely blocked by co-workers.**
5. **An employer fails to provide single-sex congregate restrooms or, where necessary, locker rooms.**
6. **A female nurse’s employer condones the behavior of a male patient who pinches her when she approaches his bed in the course of her work.**

- 
7. There is a Friday afternoon ritual where co-workers show X-rated videotapes at the office.
  8. There is generalized use of epithets, comments and jokes of a sexual nature.
  9. Workers refer to members of the opposite sex in derogatory terms such as "bitch" and "girl."
  10. A job applicant is asked questions about sexual or social availability.
  11. A supervisor retaliates against a supervisee after a consensual romantic relationship ends.
  12. Pornographic photographs are placed at the job site—this includes locker rooms and restrooms.
  13. A victim of sexual harassment is transferred because he or she has complained about the matter to management.
  14. A co-worker propositions another and refuses to "take no as an answer."

**B. Schedule of penalties for misconduct**

Sexually-oriented acts and sex-based conduct have no legitimate business purpose. Accordingly, an employee who engages in such conduct must be made to bear full responsibility for his or her illegal act(s). Following is a schedule of penalties for sexual harassment. A written record of each penalty imposed on an employee will be placed in the employee's personnel file and included in his or her evaluation.

**1. Assault**

Any employee's first proven offense of assault or threat of assault of a sexual nature will result in dismissal.

**2. Other acts of harassment by co-workers**

An employee's first proven offense of sexual harassment, other than assault, will result in nondisciplinary counseling, the issuance of a verbal and written reprimand, and a written warning. A second proven offense will result in a change of schedule, transfer, demotion, suspen-

---

sion, or discharge, depending upon the nature and severity of the misconduct.

**3. Other acts of harassment by supervisors and managers**

A supervisor's first proven offense of sexual harassment, other than assault, will result in counseling and/or the issuance of a verbal and written reprimand, change in schedule, transfer, demotion, suspension and/or discharge, depending upon the nature and severity of the misconduct. Any subsequent proven offense will result in suspension or discharge.

**4. Retaliation**

Alleged retaliation against a sexual harassment complainant will result in nondisciplinary oral counseling. Any form of proven retaliation will result in suspension or discharge upon the first proven offense, depending upon the nature and severity of the retaliatory acts, and discharge upon the second proven offense.

**5. Failure to cooperate with a sexual harassment investigation or failure to implement remedial measures**

Employees who fail to cooperate with a sexual harassment investigation, or who fail to implement remedial measures, may be sanctioned by the issuance of a verbal and written reprimand; and/or change in schedule, transfer, demotion, suspension, and/or discharge, depending upon the nature and severity of the misconduct.

**C. Procedure for filing complaints**

An employer must provide its employees with convenient, confidential, and reliable mechanisms for reporting incidents of sexual harassment and retaliation. Accordingly, an employer should designate at least two employees in supervisory or managerial positions at each of its sites to serve as investigative officers in alleged sexual harassment cases. The purpose of having several persons to whom complaints may be made is to avoid a



---

situation where an employee is faced with filing a complaint with the very person who is the subject of the complaint, or a close associate of that person. The names, responsibilities, work locations and phone numbers of each sexual harassment investigator will be routinely communicated to employees in a continuous and convenient manner which apprises employees of these matters in an anonymous and inconspicuous manner.

Complaints of acts of sexual harassment or retaliation in violation of the sexual harassment policy will be accepted in writing or orally. Anonymous complaints will be taken seriously and investigated. Any employee who has observed sexual harassment or retaliation should report it to the designated investigative officer. All supervisors and managers who become aware of sexual harassment in the workplace must immediately report such knowledge in writing to the investigative officers.

Except when required by law, the employer shall not release information regarding a complaint or investigation to anyone, except when necessary for the completion of an investigation or the prosecution of charges brought against the alleged harasser. Where it is necessary to release information regarding the subject matter of the complaint or investigation, every effort shall be made to protect the identity of the complainant, the alleged target of the harassment (if a different individual than the complainant), and the alleged harasser. The purpose of this provision is to protect the confidentiality of the employee who files a complaint, to encourage the reporting of all incidents of sexual harassment, and to protect the reputation of an employee wrongly charged with sexual harassment.

If the allegations involve assault, or threatened assault, of sufficient severity that the target of harassment reasonably believes that his or her safety is threatened, the employer must take all necessary steps to protect the target. These actions can include changing the alleged harasser's schedule, transferring the alleged harasser, or suspending the alleged harasser pending the outcome of the investigation.

All individuals contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect, and that any retaliation

---

or reprisal against the complainant or anyone assisting in the investigation is unlawful and will not be tolerated. Retaliation includes any discipline; change in working conditions; refusal to cooperate with; hazing, shunning, or other acts initiated because an employee has resisted or complained about sexual harassment, or has cooperated in the investigation.

**D. Procedure for investigations**

Each investigative officer shall receive thorough training about sexual harassment, these regulations, and about their obligation to provide a fair and impartial investigation. The investigative officer has the responsibility for investigating complaints expeditiously or, upon the complainant's request, the responsibility to attempt to resolve the complaint informally.

Before commencing an investigation, the alleged harasser will receive written notice of the allegations and the name of the complainant. An investigation of the complaint normally will involve interviews with the complainant, the alleged target of the harassment (if a different individual), the alleged harasser, named witnesses, if any, and other employees who may have knowledge of the harassment. The investigative officer shall take contemporaneous notes summarizing each of the interviews. Interviews should be completed within fourteen days of the submission of the complaint. All employees shall be protected from coercion, intimidation, retaliation, interference, or discrimination for assisting in the investigation.

Without more, the alleged harasser's denial of the allegations will not be sufficient to conclude an investigation and close the case. Instead, such denial will be carefully weighed in light of the complainant's statement and any additional evidence. It is not necessary that a complainant name additional witnesses. If the complainant's statement is credible, given all the circumstances, this will be considered sufficient to find that sexual harassment occurred.

Within seven days of completing the interviews, the investigative officer will produce a written report which, together with the investigative file, will be submitted to the employer. The investigative officer is empowered to recommend remedial measures based upon the results of the investigation.

---

The individual filing the complaint, the alleged target of the harassment (if a different individual), and the alleged harasser shall be informed of the results of the investigation and permitted to review the written report and investigative file. These individuals will be permitted to submit comments regarding the completeness of the investigation and the results of the investigation, within seven days. These comments will be considered by the employer to determine if any additional investigation is necessary or if the recommended remedial or disciplinary action should be modified in any manner.

The employer shall consider and act upon the written recommendation of the investigative report within seven days of its submission. The complainant, the alleged target of the harassment (if a different individual), and the alleged harasser will be notified in writing of the employer's action. If it is determined that the alleged harasser has engaged in conduct which constitutes sexual harassment, the harasser shall be subject to immediate discipline designed to stop the harassment and prevent its recurrence.

#### **E. Education and training**

Education and training for employees at each level of the workforce is critical to the success of a policy against sexual harassment. The employer's sexual harassment policy must be conspicuously posted in the workplace.

Education and training must include the following:

##### **1. All employees**

Each employee will be given a copy of the sexual harassment policy and will be requested to read it and sign a receipt. After the first year of implementation, the policy will be distributed in the same form to each newly hired employee during orientation. This procedure assures that employees are given notice of expected standards of behavior. In addition, supervisory and managerial staff will orally explain the employer's policy, stress the employer's commitment to eliminating sexual harassment in the workplace, and state the penalties for engaging in prohibited conduct, and the procedure for reporting violations.

---

**2. All supervisory and managerial employees**

All supervisory and managerial staff will participate in an annual training session on sexual harassment. At least one-third of each session will be dedicated to education about workplace sexual harassment, including training as to what types of remarks, behavior, and pictures will not be tolerated.

**3. All investigative officers**

The investigative officers will attend an annual training seminar conducted by experienced sexual harassment educators and/or investigators to educate them about the problems of sexual harassment in the workplace and to suggest techniques for investigating, mediating and stopping it.