



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
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EEOC No. 532-2015-02195

Vanguards of Cleveland
17703 Grovewood Avenue
Cleveland, Ohio 44119

Charging Party

City of Cleveland Fire Department
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the subject Charge of Discrimination filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII). All requirements for coverage have been met.

The charge alleged that since at least 2009, Respondent discriminated against Black, Hispanic and female applicants in hiring and promotion in violation of Title VII. The alleged practices included a pattern or practice of failing or refusing to hire and promote Black, Hispanic and female applicants through use of discriminatory hiring tests and procedures which adversely impacted applicants on the basis of race, national origin and sex in violation of Title VII. The charge further alleged that the majority of fire houses do not have female restrooms, locker and shower room facilities and that females are not afforded the same terms and conditions of employment as males in violation of Title VII.

Respondent denied the allegations.

Upon review of the evidence in this matter as it relates to the 2010 and 2014 selection cycles for entry-level firefighters, I find that Respondent used written tests and physical ability tests during the hiring process. Bonus points were awarded for residency, military service, and in the 2010 selection cycle for successful participation in the Martin Luther King program. Scores were calculated for each test, bonus points added and an overall score calculated. An eligible list for hire was formulated based upon candidates overall ranked score, highest to lowest, with offers to hire being made to one of the top three candidates. When a selection was made from the top three, the next candidate in numerical order was then considered. After being considered four times and not selected, a candidate was removed from the eligible list.

Analysis of the steps for the 2010 and 2014 entry-level firefighters hiring process revealed statistically significant adverse impact against candidates who are female, Hispanic and Black for each selection cycle. Specifically, Black candidates were found to have statistically significant adverse impact in several steps leading to job hire, including the written test, the physical agility test and job hire. Furthermore, the written test for entry-level firefighters

showed statistically significant adverse impact for Hispanic candidates. Regarding the physical agility test, statistically significant adverse impact was found for female candidates. The evidence collected did not show the steps used in the hiring process were job related and consistent with business necessity. Moreover, even if the hiring process was job-related and consistent with business necessity, it appears that Respondent could have used valid, alternative practices that would have caused less adverse impact.

Regarding the promotion process to the level of Lieutenant and Captain for the 2010 and 2014 promotion cycles, the evidence shows candidates were given written and oral tests and received points for seniority. Scores were calculated for each test, seniority points added and an overall score calculated. An eligible list for promotion was formulated based upon candidates overall ranked score, highest to lowest, with offers to hire being made to one of the top three candidates. When a selection was made from the top three, the next candidate in numerical order was then considered. After being considered four times and not selected, a candidate was removed from the eligible list.

Analysis of the steps for promotion to the level of Lieutenant and Captain for the 2010 and 2014 promotion cycles revealed statistically significant adverse impact against candidates who are Black related to final test scores and overall scores. The evidence collected did not show the promotion process was job related and consistent with business necessity. Moreover, even if the hiring process was job-related and consistent with business necessity, it appears that Respondent could have used valid, alternative practices that would have caused less adverse impact.

Therefore, I find that candidates for entry-level hire were discriminated against because of their sex (female), national origin (Hispanic) and race (Black) in violation of Title VII. I find that candidates for promotion were discriminated against because of their race (Black) in violation of Title VII. I also find Respondent has a pattern or practice of discriminating against females, Hispanics and Blacks due to their sex, national origin and race in violation of Title VII.

And finally, the evidence collected during the investigation revealed that only some of the fire houses have female-restroom and locker room facilities. Therefore, I find that female firefighters, individually and as a group of aggrieved individuals, have not been afforded the same terms and conditions of employment as their male firefighters because of their sex in violation of Title VII.

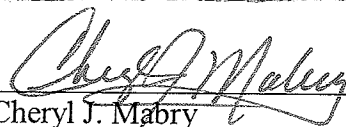
Upon finding reasonable cause to believe that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. The Respondent will be contacted by a Commission representative to discuss conciliation.

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

The confidentiality provisions and the Commission Regulations apply to information obtained during conciliation.

On Behalf of the Commission:

11.13.2019
Date


Cheryl J. Mabry
Director

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