



June 6, 2024

VIA EMAIL

Roberta Reardon, Commissioner of Labor
NYS Department of Labor
Building 12
W.A. Harriman Campus
Albany, NY 1222

David Powell, Director
Division of Human Rights
Manhattan Regional Office
Adam Clayton Powell State Office Building
163 West 125th Street, 4th Floor
New York, NY 10027

Investigation Request: Manhattan District Attorney's Office

Dear Commissioner Reardon and Director Powell:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. We write pursuant to N.Y. COMP. CODES R. & REGS. tit. 9, § 465.3 (2021), to request that you file complaints with the Human Rights Division (“the Division”) and investigate the Manhattan District Attorney’s Office (“the Office”) for violating the Human Rights Law, N.Y. EXEC. LAW § 290 et seq.

I. Background

Alvin Bragg has used his Office not to fight crime and ensure equal justice under the law for Manhattan residents but instead as a lawfare weapon against former President Donald J. Trump, “contort[ing] the law in an unprecedented manner” to snare [his] prey.”¹ Not only has Mr. Bragg apparently violated his oath and duty to refrain from abusing prosecutorial power, but there is also strong evidence that his Office violates New York State laws prohibiting employment discrimination based on race, sex, national origin, and other protected characteristics. See N.Y. EXEC. LAW §§ 296(a)–(b).

¹ Elie Honig, *Prosecutors Got Trump — But They Contorted the Law*, INTELLIGENCER (May 31, 2024), <https://tinyurl.com/3rdn979w>.

II. The Manhattan District Attorney's Office violates the New York Human Rights Law

The Manhattan District Attorney's Office is headquartered at One Hogan Place, New York, NY 10013.² The Office website contains clear evidence of unlawful discrimination. It includes a Diversity and Inclusion page claiming that it is **“dedicated to building a diverse workforce that reflects these communities.”**³ It lists its **“Diversity Equity Inclusion and Justice priorities,”** including **“[e]nsuring our staff reflects the diversity of the communities we serve.”**⁴ The websites for legal⁵ and professional staff⁶ contain similar statements. In fact, the very first words on the webpages for careers as legal staff and for legal training within the Office are, **“[w]e are committed to the recruitment, hiring, retention, and promotion of a diverse staff.”**⁷ This commitment apparently guides the Office's recruitment process to fill “approximately fifty openings each year for legal staff positions.”⁸

The application for a Law Clerk position requires applicants to disclose their race, ethnicity, and gender, and there is an additional optional selection for applicants to select their “LGBT” – apparently referring to applicants' sexual orientation (with no option to identify oneself as heterosexual).⁹ The application also states that the Office “is an inclusive equal opportunity employer committed to recruiting and retaining a diverse workforce and providing a work environment that is free from discrimination and harassment based upon any legally protected status or protected characteristic...”¹⁰

² The New York Human Rights Law grants Division jurisdiction over claims against “a city, county, town, village or other political subdivision of the state of New York shall be considered an employer of any employee or official, including any elected official, of such locality's executive, legislature or judiciary, including persons serving in any local judicial capacity, and persons serving on the staff of any local elected official.” N.Y. EXEC. LAW § 292(5)(b).

³ MANHATTAN DIST. ATT'Y'S OFF., *Diversity, Equity, and Inclusion*, <https://tinyurl.com/d27ejn4f> (emphasis added) (last visited Jun. 6, 2024).

⁴ *Id.* (emphasis added)

⁵ MANHATTAN DIST. ATT'Y'S OFF., *Careers, Legal Staff Employment*, <https://tinyurl.com/48f8ez73> (last visited Jun. 6, 2024).

⁶ MANHATTAN DIST. ATT'Y'S OFF., *Careers, Professional Staff Employment*, <https://tinyurl.com/ye2697jt> (last visited Jun. 6, 2024).

⁷ MANHATTAN DIST. ATT'Y'S OFF., *supra* note 5; MANHATTAN DIST. ATT'Y'S OFF., *Careers, Legal Training*, <https://tinyurl.com/3rkwa9zr> (last visited Jun. 6, 2024).

⁸ MANHATTAN DIST. ATT'Y'S OFF., *supra* note 5.

⁹ New York County District Attorney's Office- Current Clerk Application for Legal Staff Positions, <https://tinyurl.com/4cr2w37n>.

¹⁰ *Id.*

III. The Division and the Department of Labor should investigate the Office

It is particularly appropriate for your offices to issue complaints here because ample evidence suggests that the Office has knowingly and intentionally violated state law and will continue to do so in the future.

The New York Human Rights Law prohibits employers from discriminating based on “age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence,” including “in receiving, classifying, disposing or otherwise acting upon application.” N.Y. EXEC. LAW §§ 296(a)–(b). Furthermore, it is unlawful for an employer to publish “any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry” related to the employment that “expresses directly or indirectly, any limitation, specification or discrimination” based on the aforementioned characteristics. N.Y. EXEC. LAW § 296(d). The Office’s numerous commitments to actively supporting diversity in hiring and recruitment indicate that the Office is accordingly violating the Human Rights Law by preferring applicants with characteristics that will help the Office achieve its demographic goals.

The Office repeatedly admits that considerations of race, color, national origin, and sex play a motivating factor in its employment practices. These considerations, purportedly embedded in the Office’s culture and day-to-day operations, are patently illegal. The Office should not intentionally recruit and hire a workforce to align with community demographics; such discrimination is always wrong.

The Office’s self-described, ongoing employment practices are patently unlawful, deeply harmful, and immoral.¹¹ It claims simultaneously to recruit based on, *inter alia*, race, sex, and national origin with “diversity” top of mind but also not to discriminate based on those characteristics. However, both cannot be true. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”¹² Decades of case law hold that — no matter how well-intentioned — policies that seek to impose racial balancing are prohibited.¹³ More broadly, the discrimination

¹¹ *Bob Jones Univ. v. United States*, 461 U.S. 574, 593 (1983) (“racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals”).

¹² *Brown v. Bd. of Education*, 347 U.S. 484, 494 (1954).

¹³ See, e.g., *United Steelworkers of Am. v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621-641 (1987); see also *Bostock*, 590 U.S. at 644.

highlighted in this case necessarily foments contention and resentment; it is “odious and destructive.”¹⁴ It truly “is a sordid business, this divvying us up” by race or sex.¹⁵

We request that you file complaints and investigate the allegations contained herein to prevent further unlawful discrimination. Thank you in advance for your consideration. Please feel free to contact us if you have any questions.

Sincerely,

/s/ Will Scolinos

America First Legal Foundation

Cc: The Honorable Letitia James, New York State Attorney General

¹⁴ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

¹⁵ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

Appendix

The screenshot shows a website page for the Manhattan District Attorney's Office. The page title is "Diversity, Equity, and Inclusion". On the left is a navigation menu with items: "Our Work", "News", "Victim Resources", "Careers", "About the Office", "MEET ALVIN BRAGG", "HISTORY OF THE OFFICE", "DIVERSITY, EQUITY, AND INCLUSION" (highlighted), and "Contact Us". Below the menu is a search bar with the word "SEARCH" and a magnifying glass icon. The main content area has a red horizontal line under the title. The text describes the office's commitment to diversity and equity, mentioning a "deep appreciation for the diverse communities" and a "dedicated to building a diverse workforce that reflects these communities". It lists priorities such as ensuring staff reflects community diversity, partnering with communities, centering victim experiences, and increasing a sense of belonging. The footer contains the office name and three office locations: Main Office (One Hogan Place), Harlem Office (163 West 125th Street), and Washington Heights Office (530 West 166th Street, Suite 600A). A small "Privacy" icon is visible in the bottom right corner of the footer.

Diversity, Equity, and Inclusion

At the heart of our Diversity Equity Inclusion and Justice work is the **deep appreciation for the diverse communities** we strive to keep safe every day and our complementary commitment to justice. We are **dedicated to building a diverse workforce that reflects these communities** as well as a culture of equity and inclusion. It is paramount that we create a culture of belonging in which our staff thrives, witnesses are and feel safe, and victims are and feel seen and heard. We acknowledge the long-standing disparities that over-criminalize some communities and silence some victims, and we are committed to encouraging and celebrating innovative pathways to justice and public safety.

The work of our office is strengthened by the diversity of our staff and the communities we serve. We actively seek and welcome people identifying with any sex, race, color, ethnicity, national origin, age, religion, disability, sexual orientation, veteran status, gender identity, or pregnancy status and those who are at the intersections of these identities. We encourage everyone to bring their whole selves to work, because our collective experiences greatly enrich the D.A.'s Office.

Our Diversity Equity Inclusion and Justice priorities include:

- **Ensuring our staff reflects the diversity of the communities we serve**
- Continuing to partner with communities to build trust and lasting relationships
- Centering victim experiences
- Increasing feeling of belonging

Manhattan District Attorney's Office

MAIN OFFICE
One Hogan Place

HARLEM OFFICE
163 West 125th Street

WASHINGTON HEIGHTS OFFICE
530 West 166th Street, Suite 600A

[/our-work/](#)



CAREERS

Legal Staff Employment

Our Work >

News >

Victim Resources >

Careers ▾

LEGAL STAFF
EMPLOYMENT

LEGAL TRAINING

PROFESSIONAL STAFF
EMPLOYMENT

INTERNSHIP
OPPORTUNITIES

About the Office >

Contact Us

We are committed to the recruitment, hiring, retention, and promotion of a diverse staff.

Current Opportunities for Admitted Attorneys >>

Each year several hundred law school graduates and practicing attorneys apply for positions as Assistant District Attorneys. There are approximately fifty openings each year for legal staff positions. Most of the staff is hired directly out of law school, while some of the staff join the office as laterals or after clerking. Given the diverse nature of our community, the ability to work with people of different backgrounds is critical. In addition, the office seeks to have a legal staff that reflects the diversity of the community that we serve.

New Assistant District Attorneys commit themselves to serving the office for three years. Most stay well beyond their commitment. Traditionally, the new class joins the office several weeks after taking the bar examination. After completing a six-week orientation and training program, ADAs begin work in their bureaus.



Our Work >

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Victim Resources >

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EMPLOYMENT

LEGAL TRAINING

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SEARCH 

CAREERS


Legal Training



We are committed to the recruitment, hiring, retention, and promotion of a diverse staff.

The New York County District Attorney's Office recognizes that legal training is essential to a prosecutor's development. We have therefore established an extensive and in-depth training program that begins when Assistant District Attorneys first enter the office, and extends throughout their professional lives.

Training begins with orientation, where arriving ADAs are instructed on the fundamentals of prosecution laws and procedures, criminal court practice, and ethical obligations. As they progress in their careers, ADAs receive training in trial advocacy, grand jury procedures, supreme



CAREERS

Professional Staff Employment

[Check out our current job openings >>](#)

The Office's professional staff perform a variety of key functions for the office, including supporting the Trial, Investigation and Appeals Divisions, as well as other prosecution support and office functions. Our professional staff receive a competitive salary and a generous benefits package, as well as unparalleled opportunities for professional development.

Given the diverse nature of our community, the ability to work with people of different backgrounds is critical. The Office seeks to have a staff that reflects the diversity of the community that we serve. To that end, the Office is firmly committed to a policy against discrimination based on race, color, religion, gender, national or ethnic origin, age, disability, marital or veteran status, sexual orientation, gender identity, or gender expression.


APPLICATION PROCESS

Application Process




Please review the job descriptions and position qualifications for our [current openings](#) at the New York County District Attorney's Office. If you are interested in applying for a position in the Office, you must submit an application through our [website](#). When accessing our current openings, please use Chrome or Firefox.

At the bottom of each posting you will find an embedded link to the online application page—please click this link. Once arriving at the online application page, you must create an account by selecting a username and password linked to a valid email address. Once you have created an account, you will be able to access the application. From there, you will need to enter or select information for all of the required fields, browse and upload the required documents, and then click the submit button to complete the process.

FAQS

SEARCH 

Our Work >
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 LEGAL STAFF EMPLOYMENT
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*The City of New York is an inclusive equal opportunity employer **committed to recruiting and retaining a diverse workforce** and providing a work environment that is free from discrimination and harassment based upon any legally protected status or protected characteristic, including but not limited to an individual's sex, race, color, ethnicity, national origin, age, religion, disability, sexual orientation, veteran status, gender identity, or pregnancy.*

Personal Information

Application

Education

Attachments

Voluntary Self ID

Nothing selected

Nothing selected

Nothing selected

Attachments

Cover Letter *

Choose file

Browse

Resume *

Choose file

Browse

Law School Transcript *

Choose file

Browse

Writing Sample *

Choose file

Browse

References *



Choose file

Browse

EEO Information

Race & Ethnicity *



Gender *

LGBT

Nothing selected

Nothing selected

Nothing selected

Bisexual

Gay

Lesbian

Trans

Save

Submit



The New York County District Attorney's Office is an inclusive equal opportunity employer committed to recruiting and retaining a diverse workforce and providing a work environment that is free from discrimination and harassment based upon any legally protected status or protected characteristic, including but not limited to an individual's sex, race, color, ethnicity, national origin, age, religion, disability, sexual orientation, veteran status, gender identity, or pregnancy.

* Required Fields