**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**
300 Lakeside Drive, P.O. Box 12688
Oakland, CA 94604-2688
(510) 464-6000

**2021**

Mark Foley
PRESIDENT

Rebecca Saltzman
VICE PRESIDENT

Robert Powers
GENERAL MANAGER

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5TH DISTRICT

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6TH DISTRICT

Lateefah Simon
7TH DISTRICT

Janice Li
8TH DISTRICT

Bevan Dufty
9TH DISTRICT

May 4, 2021

Dear BART Employee:

This memo is to remind you of BART's longstanding commitment to Equal Employment Opportunity (EEO) for all BART employees. On April 8, 2021, the Board of Directors approved revisions to the enclosed EEO Policy.

Pursuant to the State of California statutes, the revised EEO Policy expands the protected category of "Race" to include "hair texture and protective hair styles." Additionally, the EEO Policy includes a revision to the statute of limitations to file external complaints with the Department of Fair Employment and Housing from 365 days to 3 years (from the date of the last discriminatory incident).

Those who believe they have been subject to discrimination, harassment, and/or retaliation should immediately report any such prohibited conduct to BART's Office of Civil Rights (OCR) at eeocomplaint@bart.gov. District employees are encouraged to file complaints within 30 days of the incident.

As BART employees, you are also afforded protections if you become disabled or need the services of Leave Management in Human Resources. BART managers and supervisors have the responsibility to maintain confidentiality and work with employees and Leave Management to address any requests for leave and/or other reasonable accommodation. Employees who believe there has been a violation of their right to a reasonable accommodation should email HRDP@bart.gov.

Finally, most District employees must take refresher training in the prevention of sexual harassment in the workplace this year per BART's Prevention of Sexual Harassment in the Workplace Policy and as required by California law. BART's Prevention of Sexual Harassment in the Workplace Policy has been enclosed for your reference.

All District non-discrimination policies, including federal and state compliance posters, are posted throughout the District and online at EmployeeConnect and www.bart.gov. If you have any questions regarding these policies, please contact Maceo Wiggins, Director, Office of Civil Rights at (510) 464-7194 or mwiggin@bart.gov.

Sincerely,

Robert M. Powers
General Manager

Attachments

# EQUAL EMPLOYMENT OPPORTUNITY (EEO)

## Statement of Policy:

The San Francisco Bay Area Rapid Transit District (District) is committed to providing a work environment free from discrimination, harassment, and retaliation, including discrimination and harassment based on the EEO protected categories covered by this policy. The District is committed to providing equal employment opportunities to all employees and applicants for employment. This policy extends to conduct with a connection to an employee's work, even when the conduct takes place away from the District's premises, such as a business trip or business-related social function.

As an equal opportunity employer, we strive to have a workforce that is reflective of the community we serve and to provide a professional and respectful work environment. No person is unlawfully excluded from employment opportunities in any personnel transaction including recruitment, hiring, promotion, selection for training, termination, transfer, layoff, demotion, rates of pay or other forms of compensation, benefits and other terms and conditions of employment based on race (includes hair texture and protective hair styles), color, marital status, sexual orientation, religion (includes religious dress and grooming practices), national origin (including language use restrictions), ancestry, age (40 and above), sex/gender (includes pregnancy, childbirth, breastfeeding, and/or related medical conditions), gender identity/ gender expression, disability (mental and physical, including HIV and AIDS), medical condition (cancer or a record or history of cancer/genetic characteristics and information), request for family care leave, request for pregnancy disability leave, request for leave for an employee's own serious health condition, or military or veteran status, domestic violence victim status and any other status protected by state or federal law.

District employees who meet state and federal eligibility requirements are:

- Guaranteed leave if disabled because of pregnancy;
- Guaranteed reasonable accommodation for pregnancy;
- Guaranteed leaves for the birth or adoption of a child, for the employee's own serious health condition, or to care for a "family member" (as defined by law) with a serious health condition;
- Protected from harassment because of their sex, race, or any other category covered under the law;
- Protected from retaliation for filing a complaint, for participating in the investigation of a complaint, or for protesting possible violation of the law; and/or
- Protected from prohibited harassment by coworkers, third parties, as well as supervisors and managers with whom the employee comes into contact.

The District is committed to providing reasonable accommodation to applicants and employees because of a disability or to practice or observe their religion, absent undue hardship. Employees with disabilities are also entitled to reasonable accommodation when necessary in order to perform the essential functions of the job.

The District recognizes and values the diversity of its workforce and the benefits to the District programs and services that are promoted by diverse viewpoints, life experiences, and cultural perspectives. The District supports and encourages diversity and provides education and training related to the benefits and challenges of working productively in a culturally diverse environment.

## Implementation

As General Manager, I maintain overall responsibility and accountability for District compliance with the EEO Policy and Program. To ensure day-to-day management, including program preparation, monitoring, and complaint investigation, I have appointed **Maceo Wiggins, Director, Office of Civil Rights** as the EEO Officer (510) 464-7194. The EEO Officer reports directly to me and acts with my authority with all levels of management, labor unions, and employees.

All District executives, management and supervisory personnel, however, share in the responsibility for implementing and monitoring the EEO Policy and Program within their respective areas and will be assigned specific tasks to ensure compliance is achieved. Managers and supervisors will be evaluated based on their successful implementation of the District's EEO Policies and Procedures as they are regarding other District goals.

Consistent with applicable federal and state laws, the District is committed to developing a written nondiscrimination program setting forth the policies, practices and procedures, with stated goals and timetables. Upon request, the District will make the EEO Program available for inspection by an employee or applicant for employment.

All District personnel, including Board members, are responsible for and required to comply with the EEO Policy and Program. District hiring personnel are accountable for evaluating a diverse pool of candidates to select a qualified individual in a manner that is free of artificial impediments.

All BART employees are responsible for conducting themselves in accordance with the District's EEO Policy.

## Corrective Action Guidelines

The District will take appropriate corrective action(s) up to and including formal discipline against any employee(s) when an investigation has found that misconduct occurred. Such corrective action(s) may include, but are not limited to, letters of reprimand, suspension, demotion, or termination. Additionally, depending on the nature of the violation, civil liability could be imposed on the violator as well as the District.

## Reporting

All applicants and employees have the right to file complaints alleging a violation of the EEO Policy. The District complaint procedure does not require an employee to complain directly to their immediate supervisor. Any employee who believes that they have experienced EEO discrimination, harassment and/or retaliation is encouraged to file a complaint with the District's Office of Civil Rights within 30 days of the incident. Complaints of discrimination, harassment or retaliation should be directed to:

**Office of Civil Rights**
**ATTN: Katherine Tate, Supervisor of EEO Programs**
**300 Lakeside Drive, Suite 1682T**
**Oakland, CA 94612**
**(510) 464-6107**
**ktate1@bart.gov** or **eeocomplaint@bart.gov**

District policy and state law prohibit retaliation against an individual who files a charge or complains about EEO discrimination or harassment, who participates in an employment discrimination proceeding (such as an investigation or lawsuit), or who otherwise engages in protected activity including participation as a witness in an EEO investigation. Any such retaliation is strictly prohibited and is a violation of the District's Equal Employment Opportunity Policy, regardless of whether the original complaint is sustained.

All BART employees have the right to file their complaint with the Department of Fair Employment and Housing (DFEH), the Equal Employment Opportunity Commission (EEOC), or the U.S. Department of Transportation (DOT). The statute of limitations to file with DFEH is three (3) years from the date of the last discriminatory incident. The statute of limitations for the EEOC is 300 days from the date of the alleged harm. Complaints should be filed with DOT within 180 days of the alleged act of discrimination.

Robert M. Powers

Robert M. Powers
General Manager

13 April 2021

Date

Adopted 4/8/2021

# PREVENTION OF SEXUAL HARASSMENT IN THE WORKPLACE

## Statement of Policy:

The San Francisco Bay Area Rapid Transit District (District) is committed to maintaining a workplace that is free of sexual harassment. In keeping with the District's long-standing Equal Employment Opportunity (EEO) Policy, sexual harassment in the workplace will not be tolerated. The District is committed to enforcing this policy and to providing State of California mandated training to all of its employees to assist them in dealing sensitively and effectively with this important issue.

All BART employees are responsible for conducting themselves in accordance with the District's rules of employee conduct, including but not limited to, the EEO Policy.

Any employee who believes that they have been the victim of harassment on the basis of sex has the right to file a complaint with the District's Office of Civil Rights. All complaints of sexual harassment will be investigated. Retaliation against an employee for filing a complaint is prohibited by law. All parties involved will be treated in a fair and impartial manner. Employee privacy and confidentiality will be protected to the extent permitted by law.

Employees who violate this policy will be subject to disciplinary action, up to and including discharge.

## Definition

Sexual harassment is a form of sex discrimination and is an unlawful employment practice. It is a personal affront to the affected employee and negatively impacts morale, motivation, and job performance. This policy includes sexual harassment of District employees by non-employees. Unwelcome sexual advances, request for sexual favors, and verbal, physical, visual, or other conduct of a sexual nature constitutes sexual harassment and are prohibited by this policy when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision; and/or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

## Reporting

Prompt and appropriate action should be taken to prevent or stop incidents of sexual harassment. Any employee who believes that they have been the target of sexual harassment is encouraged to inform the offending person verbally or in writing that such conduct is unwelcome, offensive, and must stop. An employee, however, is not required to communicate directly with the offending person, or if communication has been ineffective, the employee can complain directly to the Office of Civil Rights or any District manager, supervisor, foreworker or

lead personnel. Failure to communicate with the perpetrator does not prevent an employee from filing a complaint, nor does it in any way exonerate the harasser.

Any manager, supervisor, foreworker or lead personnel who witnesses or has knowledge of sexual harassment or other forms of harassment or conduct prohibited by District rules must promptly report such conduct to and consult with the Office of Civil Rights. Managers, supervisors, foreworkers, and lead personnel have a legal responsibility to take action if they know or have reason to believe of a harassing situation. Managers, supervisors, foreworkers and lead personnel must take action to address the situation regardless of the victim's stated desire to pursue or not to pursue the matter.

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## California Government Code Section 12950.1 Training

California employers with five or more employees must provide at least one hour of sexual harassment and abusive conduct prevention training to non-managerial employees and at least two hours of sexual harassment and abusive conduct prevention training to managerial employees within six months of hire or promotion, and every two years thereafter.

Under the regulations, temporary employees, unpaid interns, unpaid volunteers, and persons providing services pursuant to a contract, may be required to receive the same training as District employees.

For more information on the District's Prevention of Sexual Harassment training, contact the Office of Civil Rights.

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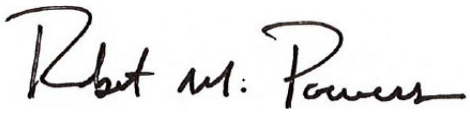
## Enforcement

The Office of Civil Rights can provide both formal and informal consultation and provide information regarding harassment concerns. Complaints and cases of sexual harassment brought to the attention of the Office of Civil Rights or any District manager, supervisor, foreworker or lead personnel will be handled promptly through a confidential process.

Retaliation against employees alleging sexual harassment or involved as witnesses in a sexual harassment investigation is prohibited.

Complaints of sexual harassment or inquiries concerning the application of federal and state laws and regulations should be directed to:

**Office of Civil Rights**
**ATTN: Katherine Tate, Supervisor of EEO Programs**
**300 Lakeside Drive, Suite 1682T**
**Oakland, CA 94612**
**(510) 464-6107**
**ktate1@bart.gov**



Robert M. Powers
General Manager

November 8, 2019
Date

Adopted 10/24/2019