# EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT PROCEDURE

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## PURPOSE:

To assign responsibility within the District for the prompt, consistent and appropriate action in investigating and resolving complaints filed with the Office of Civil Rights (OCR) alleging violation of its Equal Employment Opportunity (EEO) Policy and/or its Prevention of Sexual Harassment in the Workplace Policy.

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The San Francisco Bay Area Rapid Transit District (District) is committed to providing a work environment free from discrimination, harassment and retaliation for filing a complaint. It is also the District's policy and practice to assure equal employment opportunity in all personnel transactions 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 without regard to race (includes hair texture and protective hair styles), color, marital status, sexual orientation, religion (includes religious dress and grooming practices), national origin (includes language use restrictions), ancestry, age (40 and above), sex/gender (includes pregnancy, childbirth, breastfeeding, and/or related medical condition), 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.

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## Filing a Complaint of Discrimination or Harassment

Any employee who believes that they have experienced discrimination, harassment and/or retaliation in violation of the District's EEO policy may file a complaint with the District's Office of Civil Rights.

The District encourages the prompt reporting of conduct that may violate its EEO policy.

### Step 1: How to File

All formal complaints filed with the District can be submitted with a completed EEO Discrimination Complaint Form, which may be obtained from the District's Office of Civil Rights or on the District's intranet.

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

**Office of Civil Rights**
**ATTN: Manager of EEO Programs**
**2150 Webster Street, 4th Floor**
**Oakland, CA 94612-3012**
**(510) 464-6113**
**eeocomplaint@bart.gov**

## Right to File with an External Agency

All employees also have the right to file with an external agency. As a general rule, complaints must be received by the California Civil Rights Department (CCRD), within three (3) years and by the Equal Employment Opportunity Commission (EEOC) within 300 days of the action that is the subject of the complaint. Any questions regarding the filing of a complaint should be directed to the California Civil Rights Department (CCRD) and/or the Equal Employment Opportunity Commission (EEOC).

Applicants/employees may also file complaints of employment discrimination with the U.S. Department of Transportation's Federal Transportation Administration (FTA) Region IX. Complaints must be filed within 180 days of the alleged act of discrimination.

## Step 2: Intake Interview

Within 10 working days of receipt of an EEO Discrimination Complaint, OCR staff will contact the complainant and schedule an intake interview. The intake interview will be scheduled for the earliest date convenient to the complainant and OCR staff. During the intake interview the complainant must be prepared to clearly state the employment action or other basis of the complaint. Failure to clearly articulate the basis of the complaint will hinder the prompt investigation and resolution of the complaint.

## Step 3: Investigation

All formal EEO investigations will be conducted by OCR staff or an outside consultant retained by OCR.

All reasonable efforts will be made during the course of the investigation to maintain confidentiality.

The investigation may include:

- Interviews with the complainant and respondent;
- Interviews with witnesses identified by the complainant and respondent, and any other witnesses determined by the investigator to possess pertinent information;
- Review of personnel records and other relevant documents.

**Step 4: Outcomes**

All investigations will result in one of the following findings:

- No violation of District EEO policy found;
- Insufficient evidence to find violation; or
- Violation of District EEO policy found.

If the complainant disagrees with the finding issued by OCR, they may also pursue the complaint through an external agency; CCRD, EEOC or FTA.

District Management, in conjunction with Human Resources and/or Labor Relations, is responsible for taking corrective/disciplinary actions to end discrimination or harassment and to correct the behavior that led to the incident/complaint. Depending upon the severity of the conduct, these actions may include, but are not limited to:

- Apology from the respondent
- Letter of counseling
- Written warning
- Training
- Suspension
- Demotion
- Dismissal

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**Retaliation**

Retaliation for filing a complaint is prohibited by law. Retaliation against employees alleging discrimination and/or harassment or involved as witnesses in a discrimination or harassment investigation is prohibited. Employees who oppose and/or refuse to participate in illegal discrimination or harassment are also protected against retaliation.

**Supervisor's Responsibilities**

Any Manager or Supervisor who witnesses or has knowledge of discriminatory actions, sexual harassment or other forms of harassment or conduct prohibited by District rules must promptly report such conduct to the Office of Civil Rights. Managers and Supervisors have a legal responsibility to take action if they know or have reason to believe of a harassing situation. When a Manager or Supervisor learns of, observes, has reason to believe, or is informed of a potential harassment situation, they must consult with the Office of Civil Rights. Managers and Supervisors must take action to address the situation regardless of the victim's stated desire to pursue or not to pursue the matter.