
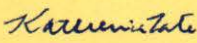
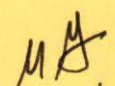

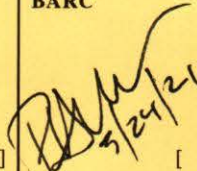




## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  3/31/2021		GENERAL MANAGER ACTION REQ'D:		
DATE: 3/17/2021		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kay Tate Dept: Civil Rights  Signature/Date: 3/24/2021	General Counsel  3/24/21 [ ]	Controller/Treasurer  3/25/21 [ ]	District Secretary [ ]	BARC  3/24/21 [ ]

### Adoption of the Revised Equal Employment Opportunity Policy

#### PURPOSE:

To request that the Board of Directors adopt the revised Equal Employment Opportunity (EEO) Policy for the District.

#### DISCUSSION:

Recipients and sub-recipients of Federal Transit Administration (FTA) financial assistance that employ 50 or more transit-related employees are required to adopt a formal EEO Policy.

The Board of Directors initially adopted an Affirmative Action Program and Districtwide goals for minorities and women in September 1974. The most recent adoption of the District's EEO Policy was on October 24, 2019.

Pursuant to the State of California EEO statutes, the proposed EEO Policy includes the following revisions:

- Expands the protected category of "Race" to include "hair texture and protective hair styles."
- Revises the statute of limitations to file complaints with the Department of Fair Employment and Housing (DFEH) from 365 days to three (3) years from the date of the last discriminatory incident.



The proposed revised EEO Policy additionally adds language to encourage employees to file a complaint with BART's Office of Civil Rights "within 30 days of the incident."

**FISCAL IMPACT:**

There is no fiscal impact.

**ALTERNATIVES:**

Adopt amended or modified policy statement.

**RECOMMENDATION:**

Adopt the following motion.

**MOTION:**

The Board adopts the revised Equal Employment Opportunity (EEO) Policy.



## EQUAL EMPLOYMENT OPPORTUNITY (EEO)

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### **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](mailto:ktate1@bart.gov) or [eeocomplaint@bart.gov](mailto: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.

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Robert M. Powers  
General Manager

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Date





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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](mailto:ktate1@bart.gov) or [eeocomplaint@bart.gov](mailto:eeocomplaint@bart.gov)

Adopted 10/24/2019/8/2021

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.

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Robert M. Powers  
General Manager

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Date