

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
7	11/14/16	Open	Action	11/07/16

Subject: Approving New EEO/Anti-Discrimination and Workplace Conduct Policies

ISSUE

Whether to approve a Harassment, Discrimination and Retaliation Prevention Policy, an Equal Employment Opportunity Policy Statement and a Workplace Conduct Policy.

RECOMMENDED ACTION

- A. Adopt Resolution 16-11-___, Approving the Harassment, Discrimination and Retaliation Prevention Policy; and
- B. Adopt Resolution 16-11-___, Approving the Equal Employment Opportunity Policy Statement; and
- C. Adopt Resolution 16-11-___, Approving the Workplace Conduct Policy

FISCAL IMPACT

None.

DISCUSSION

RT has three existing policies adopted by the General Manager/CEO concerning discrimination and workplace conduct: the EEO/AA Policy Statement (dated April 3, 2012), the Workplace Non-Discrimination Policy (dated April 4, 2014), and the Workplace Conduct Policy (dated April 4, 2014).

Following recent changes in state regulations and updates in federal guidance documents, Legal Staff reexamined the policies and made updates to reflect changes in law. In addition, the existing Workplace Conduct Policy contains some ambiguities regarding: when conduct is illegal, as opposed to a violation of RT policy; and the appropriate avenue for reporting workplace conduct violations.

Due to the importance of these policies in reflecting RT's commitment to a workplace free of discrimination, harassment, retaliation and abusive conduct, Staff is recommending that the policies be adopted by the Board. Staff has made appropriate revisions to the policies and recommends that the Board adopt the policies as attached to the Resolutions.

Approved:

Presented:

Final 11/09/16

General Manager/CEO

VP, Accountability and Performance

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RESOLUTION NO. 16-11-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

November 14, 2016

**APPROVING THE HARASSMENT, DISCRIMINATION AND RETALIATION
PREVENTION POLICY**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Harassment, Discrimination and Retaliation Policy attached hereto as Exhibit A is hereby adopted.

JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

SACRAMENTO REGIONAL TRANSIT DISTRICT

Harassment, Discrimination and Retaliation Prevention Policy

RT Philosophy

RT is committed to providing:

- A respectful and supportive work environment for all employees
- A diverse and representative workplace that mirrors the region we serve
- A workplace where employees are treated fairly, equitably, and non-judgmentally
- A workplace free from discrimination, harassment and retaliation
- A workplace where supervisors/managers take responsibility for modeling appropriate behavior and assuring respectful behavior towards others.

This Discrimination and Harassment Prevention Policy is designed to achieve these goals and ensure that RT provides a respectful, professional, and productive workplace that fosters an environment where all employees may achieve their full potential while providing superior quality service to our customers.

Policy

RT takes its equal employment opportunity obligations seriously and is committed to providing a workplace free of harassment, discrimination and retaliation for filing a complaint or for requesting a reasonable accommodation. It is also RT's policy and practice to assure equal employment opportunity in all personnel transactions, including recruitment, selection, promotions, discipline, terminations, transfers, layoffs, compensation, training, benefits, and other terms and conditions of employment.

In addition, RT is committed to making reasonable accommodations for qualified individuals with disabilities and for religious practices of applicants and employees where the accommodation will not create an undue hardship.

Every RT employee is expected to conduct him or herself in a civil and non-discriminatory manner when interacting with fellow employees in the workplace or while conducting RT business. Workplace discrimination will not be tolerated. Employees engaging in such conduct will be subject to corrective or disciplinary action up to and including termination from employment and in some instances may be found civilly liable in state or federal court. RT will also take appropriate remedial actions against third parties (including vendors, contractors, consultants, and customers) found to have acted in violation of this policy.

Discrimination

Workplace discrimination is prohibited by RT Policy and under both state and federal law. The California Fair Employment and Housing Act prohibits workplace discrimination on the basis of a person's protected status, including race, religion (including religious dress and grooming practices), color, national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical disability, mental disability, medical condition, genetic information, family and medical care leave, marital status, registered domestic partner status, sex (including pregnancy, childbirth, breastfeeding, and related medical conditions), age, or sexual orientation, gender, gender-identity, gender expression, or military or veteran status.

Federal law also prohibits workplace discrimination based on a person's protected status, including race, color, religion, sex (including pregnancy, childbirth and related medical conditions; gender identity; and sexual orientation), disability, age, and national origin, genetic information (such as results of genetic testing or family information), military or veteran status and retaliation.

If and to the extent state or federal law is modified in the future to include additional protected categories, this policy will be deemed to apply to those categories as well.

It is illegal to discriminate on the basis of a person's protected status in any employment action, including: hiring and firing; compensation, assignment, classification of employees; transfer, promotion, discipline, layoff, or recall; job advertisements; recruitment; testing; use of RT facilities; training; fringe benefits; pay, retirement plans, disability leave; or other terms and conditions of employment. It is also illegal to discriminate based on the perception that a person has a protected characteristic or is associated with a person who has or is perceived as having any of those characteristics.

For purposes of this Policy, "discrimination" means any action or inaction, whether intentional or unintentional, that results in disparate treatment of an employee or applicant, or perpetuates the effects of prior discrimination, based on a protected status.

Workplace Harassment

Employee conduct that may create a hostile work environment is not tolerated by RT. Conduct that has the purpose or effect of: (1) unreasonably interfering with an individual's work performance; (2) creating an intimidating, hostile, threatening, or offensive working environment; or (3) adversely affecting the employee's performance, evaluation, assignment duties, or any other condition of employment or career development, and is based upon a protected status or characteristic is prohibited. This harassment policy extends to vendors, customers, independent contractors, unpaid interns, volunteers, persons providing services pursuant to a contract and other persons with whom you come into contact while working.

A hostile work environment claim can arise out of conduct directed at any protected status/characteristic, including race, religion (including religious dress and grooming practices), color, national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical disability, mental disability, medical condition, genetic information, family and medical

care leave, marital status, registered domestic partner status, sex (including pregnancy, childbirth, breastfeeding, and related medical conditions), age, or sexual orientation, gender, gender-identity, gender expression, or military or veteran status.

Prohibited harassment can include, but is not limited to, the following behavior:

- Verbal or electronic communication of epithets, derogatory jokes or comments, or slurs
- Visual displays of derogatory or sexually oriented posters, photography, cartoons, drawings, or gestures
- Physical conduct, including assault, unwanted touching, intentionally blocking normal movements or interfering with work because of any protected basis.
- Retaliation for reporting or threatening to report harassment

Sexual Harassment

Sexual harassment is a specific type of harassment that is sexual in nature and/or is gender-based. Sexual harassment can be directed towards males or females by either gender. Sexual harassment does not have to be motivated or based upon sexual desire. Sexual harassment is in violation of federal and state law and is prohibited by this Policy.

Sexual harassment exists when: (1) submission to the conduct is either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the conduct is used as a basis for an employment decision affecting such individual; or (3) the conduct unreasonably interferes with the individual's job performance or creates a work environment that is intimidating, hostile, or offensive.

Conduct that occurs outside the workplace can form the basis of a sexual harassment complaint, if the conduct affects the work environment in any of the three ways set out above.

Examples of sexual harassment include, but are not limited to the following:

- Off-color, sexually suggestive, sexist or risqué e-mails, stories, jokes, items, songs, personal accounts, or pictures;
- Questions others about personal matters, including the existence or details of relationships with spouses, partners, or lovers, sexual preferences or history;
- Physical touching including rubbing, hugging, stroking, kissing or grabbing any part of someone else's body or personal items on their body without their consent;
- Sexual advances, requests for sexual favors, comments containing sexual language or references with sexual innuendo or implication or obscene gestures.

Responsibilities of Supervisors and Management

Because of their positions of authority, all supervisory and managerial personnel have a responsibility to: (1) set a positive example for employees; (2) ensure that all employees are familiar with and are following the standards of conduct set forth in this Policy; and (3) foster an environment of cooperation and open communication, such that employees feel free to report conduct in violation of this Policy.

RT will evaluate the performance of RT managers and supervisors in implementing this Policy in the same way their performance is assessed regarding other job-related factors. Supervisory and managerial personnel are also reminded that their conduct outside of work with subordinate employees may impact their employment, where it may affect their ability to perform their job responsibilities with RT.

Each supervisor shares responsibility to ensure that the work environment is free of prohibited workplace discrimination and harassment. If an employee alleges to a supervisor or management representative that unlawful discrimination or harassment has occurred, it is the supervisor's or management representative's responsibility to take immediate action by reporting the allegation to RT's EEO Administrator or the General Manager/CEO (GM/CEO).

Reporting Harassment or Discrimination Resulting in a Hostile Work Environment

Any person who feels he or she is being subjected to hostile work environment harassment or discrimination has the right to object to such behavior and should immediately report such conduct to RT's EEO Administrator, unless the EEO Office is the source of the complaint. In such cases, the complaint should be filed with RT's General Manager/CEO. Employees are encouraged to report potential violations of this Policy as soon as possible, so that RT can take the appropriate steps to investigate and remedy the situation.

An employee may also file a formal complaint with the appropriate outside agency or pursue other legal recourse. Employees should be aware that under federal law, a discrimination complaint must be filed with the Equal Employment Opportunity Commission (1-800-669-4000, www.eeoc.gov) within 180 days of the unlawful conduct (unless a state complaint has been filed, in which case the complaint must be filed within 300 days) and that a state complaint must be filed with the California Department of Fair Employment and Housing (1-800-884-1684, TTY 1-800-700-2320, or at www.dfeh.ca.gov) within a year of the unlawful conduct.

Filing and Investigation of Complaints

For all complaints of unlawful workplace discrimination or harassment, RT will conduct a fair, timely, and thorough investigation that provides appropriate due process for affected parties and reaches reasonable conclusions based on the evidence collected. Every investigation will be handled discreetly and reasonable efforts will be made to keep the complaint, the investigation, and the findings confidential and to complete and close the investigation in a timely manner. RT will document and track all investigations. RT will protect individuals who file a complaint or participate in an investigation from retaliation. Employees have an obligation to participate in the investigation process once a complaint has been filed in accordance with Standard Operating Procedure

EEO-SOP-02-001. Employees who fail to cooperate as required may be subject to disciplinary action, up to and including termination from employment.

RT will take appropriate remedial measures if an investigation results in a finding of a violation of any aspect of this Policy, including disciplinary action up to and including termination from employment, if deemed warranted.

Information on the Policy or Administration of the Complaint Process

Additional information on the administration of this Policy or the process to file a discrimination complaint can be obtained by contacting Kim Holman, EEO Administrator at (916) 557-0910, or by email to: kholman@sacrt.com .

Henry Li, GM/CEO
Sacramento Regional Transit District

Date

RESOLUTION NO. 16-11-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

November 14, 2016

APPROVING THE EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Equal Employment Opportunity Policy Statement attached hereto as Exhibit A is hereby adopted.

JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

Sacramento Regional Transit District Equal Employment Opportunity Policy Statement

Sacramento Regional Transit District (RT) has a strong commitment to the community we serve and our employees. As an equal opportunity employer, we strive to have a workforce that reflects the community we serve. No person is unlawfully excluded from employment opportunities based on race, color, religion, national origin, sex (including gender identity, sexual orientation, and pregnancy), age, genetic information, disability, veteran status, or other protected class.

RT's Equal Employment Opportunity (EEO) policy applies to all employment actions, including but not limited to recruitment, hiring, selection for training, promotion, transfer, demotion, layoff, termination, rates of pay or other forms of compensation.

All applicants and employees have the right to file complaints alleging discrimination. Retaliation against an individual who files a charge or complaint of discrimination, participates in an employment discrimination proceeding (such as an investigation or lawsuit), or otherwise engages in protected activity is strictly prohibited and will not be tolerated.

RT is committed to providing reasonable accommodations to applicants and employees who need them because of a disability or to practice or observe their religion, absent undue hardship.

As RT's General Manager/CEO, I maintain overall responsibility and accountability for RT's compliance with its EEO Policy and Program. To ensure day-to-day management, including program preparation, monitoring, and complaint investigation, I have appointed Kim Holman as RT's EEO Officer, who may report directly to me and acts with my authority with all levels of management, labor unions, and employees. Contact Ms. Holman at (916) 557-0910 or kholman@sacrt.com.

All RT executives, management, and supervisory personnel, however, share in the responsibility for implementing and monitoring RT's EEO Policy and Program within their respective areas and will be assigned specific tasks to ensure compliance is achieved. RT will evaluate its managers' and supervisors' performance on their successful implementation of RT's policies and procedures, in the same way RT assesses their performance regarding other agency goals.

RT is committed to undertaking and developing a written nondiscrimination program that sets forth the policies and procedures, with goals and timetables, to which the agency is committed and will make the EEO Program available for inspection by any employee or applicant for employment upon request.

I am personally committed to a workplace that acts upon its daily responsibility to treat all applicants and employees with dignity and respect, as well as equitably under the guidelines of our EEO Policy and Program.

Henry Li, General Manger/CEO
Sacramento Regional Transit District

Date

RESOLUTION NO. 16-11-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

November 14, 2016

APPROVING THE WORKPLACE CONDUCT POLICY

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Workplace Conduct Policy attached hereto as Exhibit A is hereby adopted.

JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

SACRAMENTO REGIONAL TRANSIT DISTRICT

WORKPLACE CONDUCT POLICY

RT Philosophy

RT is committed to providing:

- A respectful and supportive workplace environment for all employees
- A workplace that is safe, secure, and free of harassment, threats, intimidation and violence for all employees
- A diverse and representative workplace that mirrors the customers we serve
- A workplace where employees are treated fairly, equitably, and non-judgmentally
- A workplace where supervisors/managers take responsibility for modeling appropriate behavior and assuring respectful behavior towards others.

The following policy addresses Workplace Conduct at RT, and is designed to ensure that RT provides a respectful, professional, productive, and safe workplace that fosters a work environment where all employees may achieve their full potential while providing superior quality service to our customers.

Policy

Every RT employee is expected to conduct him or herself in a professional manner when interacting with fellow employees in the workplace or while conducting RT business. Conduct that results in unprofessional or abusive conduct will not be tolerated. Employees engaging in such conduct will be subject to corrective or disciplinary action up to and including termination from employment.

Professional Conduct

Professional conduct can be demonstrated by exhibiting an evenhanded, dignified, respectful, courteous, and conscientious manner toward coworkers and members of the public when conducting RT business or representing RT publicly. This philosophy of professional social interaction between people is embodied in RT's Core Values, applicable to all RT employees.

Conduct that is less than business-like and professional contributes to low employee morale, absenteeism, turnover, a loss of productivity, and tends to erode the public's trust in our organization and undermines RT's credibility in the community.

RT employees must act respectfully and professionally towards other employees and members of the public.

As a guideline, before acting, employees should ask themselves:

- Does what I am saying or doing serve a purpose beyond self-interest, self-gratification, or entertainment?
- Would I like to be spoken to, spoken about, or treated in this way?
- If speaking about a co-worker, do I have sufficient information to be sure that the statement I am making is true, or is what I am saying merely conjecture or gossip? If the answer to this question is “no,” the employee should not make the statement or engage in the conduct.

If the answer to the first two questions is no, the employee should seriously consider the impact prior to making such statements, because if the consequence of making statements leads to a Policy violation, discipline may result.

Abusive Conduct in the Workplace (Bullying)

RT adopts the definition of abusive conduct as defined by California law: “Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless severe or egregious.” (Govt Code section 12950.1)

RT prohibits all forms of abusive conduct. Employees who participate in abusive conduct may be subject to discipline up to and including termination.

The following list, while not exhaustive, provides guidance as to what may constitute abusive conduct in the workplace:

- Insults and put-downs of the target, particularly in front of others;
- Screaming/yelling at the target;
- Blaming the target for their own errors;
- Excessive monitoring of the target;
- Constant criticism of the target’s abilities and/or discounting or denying their accomplishments;
- Unreasonable job demands being placed upon the target;
- Purposefully undermining the target’s efforts to succeed;
- Excluding the target from normal workplace conversations or activities and/or gossiping about the target in order to turn others against the target;
- Threats of job loss;

- Encouraging others to disregard a supervisor's instructions, thereby undermining the supervisor.

Responsibilities of Supervisors and Management

All supervisory and managerial personnel have the responsibility to: (1) set a positive example for all employees in their conduct and speech; (2) ensure that they and all reporting employees are familiar with and are following the standards of conduct set forth in this Policy; and (3) foster an environment of cooperation and open communication, such that all employees feel free to report conduct in violation of this Policy.

RT will evaluate the performance of RT managers and supervisors in implementing this Policy in the same way their performance is assessed regarding other job-related factors. Supervisory and managerial personnel are also reminded their conduct outside of work with subordinate employees may impact their employment, if it affects their ability to perform their job responsibilities with RT. Supervisors or managers found to have violated this policy, including the responsibility for enforcement of the Policy, will be subject to disciplinary action.

Each supervisor shares responsibility for supervising the work environment to keep it free of prohibited unprofessional or abusive conduct. This responsibility includes being available to discuss this Policy or any other RT policy affecting employee conduct with the employee he or she supervises and assuring them that they are not required to endure workplace conduct that violates this policy. If an employee alleges to a supervisor or management representative that a workplace conduct violation has occurred, it is the supervisor's or management representative's responsibility to take immediate action by reporting the allegation to Labor Relations or the General Manager/CEO (GM/CEO).

Reporting Workplace Conduct Policy Violations.

It is important that employees report any acts or threats of violence to their immediate supervisor or other member of management immediately. Employees who believe they are in immediate danger of harm should attempt to reach a location of safety and contact law enforcement immediately by calling 911. All such incidents must be reported to Labor Relations as soon as possible.

In all other instances, an employee who reasonably believes they have been subjected to what he or she reasonably perceives as a violation of this Policy has the right to object to such behavior and should immediately report such conduct to RT's Labor Relations Department, unless the Labor Relations Department is the source of the complaint. In such cases, the complaint should be reported to RT's General Manager/CEO, or designee. RT will not subject, or permit any employee to subject, a complainant to criticism, reprisal, retaliation or disciplinary action for good faith reporting pursuant to this Policy.

All reports of unprofessional or abusive conduct will be handled in a confidential manner, to the extent possible, with information released on a need-to-know basis. RT may take remedial action depending on the severity and nature of the incident.

Deliberate or false or misleading claims of unprofessional or abusive conduct that

appear to have been filed with the intention to harass or are found to be frivolous, are an abuse of the reporting process provided under this Policy. Bad faith claims are considered violations of this Policy and may be subject to disciplinary action, up to and including dismissal from employment.

Investigation of Reported Violations of the Workplace Conduct Policy

All complaints of potential Policy violations will be investigated promptly and fairly. RT, in its discretion, may decide to use outside investigators.

Each investigation will be handled as discreetly as possible and every reasonable effort will be made to keep the complaint, the investigation, and the findings confidential. RT will protect all individuals who participate in an investigation from retaliation. Once an investigation into a complaint has commenced employees have an obligation to participate in the investigation process.

An investigation resulting in a finding of a violation of any aspect of this Policy may be the basis of disciplinary action up to and including termination from employment. All such employment actions will be administered pursuant to the personnel rules or Collective Bargaining Agreement provisions established for the adjudication of complaints or grievances applicable to the affected employee. At-will employees may be subject to additional progressive discipline up to and including termination.

Information on the Policy or Administration

Information on the administration of this Policy or the process to file a complaint can be obtained by contacting the Labor Relations Department at (916) 916-557-4530, or by email at pmurphy@sacrt.com.

Henry Li, GM/CEO
Sacramento Regional Transit District

Date