
Alameda-Contra Costa Transit District

Administrative Regulation No. 260A:

**Prohibiting Unlawful Employment
Discrimination, Harassment and
Retaliation**

Issuing Officer: General Manager
Date of Adoption: 8/12/1998
Most Recent Amendment: 02/21/2023
See Also: 260

Subject Category: Human Resources
Subsection: General
Control Department(s): General Manager's Office of
Civil Rights and Compliance

I. PURPOSE

AC Transit (the District) is committed to an inclusive culture, where each employee has the right to feel empowered, safe, included, and engaged in a workplace that promotes equal opportunities and prohibits discriminatory practices.

This Administrative Regulation (AR) defines unlawful employment discrimination, harassment, and retaliation. This AR also creates a process to lodge complaints and procedures for an investigation for all employees, temporary workers, volunteers, interns (paid and unpaid), Board Officers, Board members, and job applicants who believe they have been subjected to inappropriate conduct in the workplace based on their membership or perceived membership in a protected category.

II. PERSONS AFFECTED

All employees, temporary workers, volunteers, interns (paid and unpaid), Board Officers, Board members, job applicants, consultants, vendors, contractors, and anyone conducting business with the District.

III. DEFINITIONS

"Discrimination" means the unequal treatment of individuals with respect to the terms and conditions of employment, based on the individual's membership or perceived membership in a protected category.

"Gender expression" means a person's gender-related appearance or behavior, whether stereotypically associated with the person's sex at birth.

"Gender identity" means a person's identification as male, female, non-binary, a gender different from the person's sex at birth, or transgender.

"Gender non-conforming or variance" is a behavior or gender expression by an individual that does not match or conforms to the social expectations for one's gender.

"Harassment" means unwelcome visual, verbal or physical conduct that a reasonable person would

consider intimidating, hostile, or abusive, based on an individual's actual or perceived membership in a protected category or in retaliation for protected conduct.

(1) Harassing Conduct includes but is not limited to the following:

- **Physical Conduct:** unwanted touching, leering, prolonged staring, impeding or blocking movement, or any physical interference with normal work or movement, as well as defacement of a person's property;
- **Verbal Conduct:** epithets, slurs, derogatory or demeaning comments, even if not directed at a specific person or persons, innuendo, jokes or ridicule, threats, or comments indicating stereotyping;
- **Visual Forms of Harassment:** leering, derogatory or sexually explicit emails, posters, letters, poems, graffiti, cartoons, computer screen savers, or drawings; and
- **Other Conduct:** hostility, exclusion, ostracism, or mistreatment based on a person's protected status or in retaliation for protected conduct.

(2) Sexual Harassment means unwanted sexual advances, requests for sexual favors, and/or other verbal, physical, visual, or written conduct of a sexual nature, or other conduct based on sex, gender, or gender identity. Sexual harassment includes but is not limited to the following:

- Requests for sexual favors or unwanted sexual advances;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;
- Verbal harassment;
- Physical harassment; or
- Visual forms of harassment.

"Inclusion" means a culture that connects each employee to the organization; encourages collaboration, flexibility, and fairness; and leverages diversity throughout the organization so that all individuals are able to participate and contribute to their full potential.

"Protected Conduct/Activity" includes filing a complaint, or otherwise opposing conduct the individual reasonably believes to be unlawful discrimination, harassment, or retaliation, or assisting in the investigation of a complaint.

"Protected Status" means race, color, religion (includes religious dress and grooming practices), sex/gender (includes pregnancy, childbirth, breastfeeding and/or related medical conditions), gender identity/gender expression, sexual orientation, marital status, medical condition (genetic characteristics, cancer or a record or history of cancer), military or veteran status, national origin, ancestry, disability (mental and physical), age, or any other group protected by federal, state or local law.

“Retaliation” means a negative employment action against or harassment of individuals who engage in, or are perceived to have engaged in, protected conduct or activities.

“Sex” includes, but is not limited to, pregnancy, childbirth, breastfeeding, and any related medical conditions, and gender identity and expression.

“Sexual Orientation” refers to physical and emotional attraction towards another person, and includes, but is not limited to: heterosexuality; homosexuality; bisexuality; asexuality; and pansexuality.

“Sex Stereotype” means an assumption about a person’s appearance or behavior, or about an individual’s ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the individual’s sex.

“Transgender” refers to a person whose gender identity differs from the person’s sex at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as “transsexual”.

[Definitions provided herein are not intended to label employees but rather to assist in understanding this AR and the legal obligations of the District. Employees may or may not use these terms to describe themselves.]

IV. REGULATION

A. Application

This Administrative Regulation applies to all District locations as well as all other employer sponsored activities such as training, social or community events, and social media platforms. This AR will be interpreted in a manner that is consistent with federal and state laws regarding discrimination and harassment.

B. Prohibited Types of Behavior

1. Discrimination or Harassment Based on Protected Status

Unlawful Discrimination and/or Harassment based on Protected Status is prohibited. The District will not tolerate any harassing or discriminatory conduct or any inappropriate conduct that affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.

2. Discrimination or Harassment Based on a Perception of Protected Status or Association with a Person in a Protected Status

The District prohibits discrimination and/or harassment based on a perception that a person has a protected status or is associated with a person who has a protected status.

3. Inappropriate, Unprofessional, or Disrespectful Conduct Based on Protected Status that may not Constitute Unlawful Harassment

The District prohibits not only unlawful harassment, but also any conduct that is unprofessional, disrespectful, or inappropriate based on a protected status, whether or not it rises to the level of legally prohibited.

4. Retaliation

The District prohibits any retaliation against an employee or job applicant who has engaged in the following: expressed a good faith concern about unlawful discrimination or harassment; filed a complaint of discrimination, harassment, or retaliation; or has participated in any manner in an investigation, proceeding, or hearing related to such a complaint. The District also strictly prohibits retaliation against an employee who has opposed any practice or conduct that violates this AR and related Board Policy(ies).

C. Procedure for Filing a Complaint

To the extent possible, a complaint will be treated with confidentiality and the privacy rights of all parties involved in an investigation will be protected. However, confidentiality cannot be guaranteed when doing so would inhibit a complete and thorough investigation. The EEO Office is available to assist with the District's internal complaint and investigation process. General information and referrals to external agencies are also available from the EEO Office.

1. Reporting Complaints Internally:

Any incident of unlawful discrimination or harassment, including sexual or other forms of harassment, should be reported promptly to the employee's supervisor or manager, to any member of management, or to the District's EEO Office (510-891-4848 or eeo@actransit.org). **An employee is not required to complain to their supervisor first.**

Any supervisor who receives a complaint or who observes discriminatory/harassing conduct shall inform EEO Office staff **immediately**. A delay in reporting may negatively impact the investigation and may subject the supervisor to discipline.

2. Reporting Complaints Externally:

Every employee and applicant for employment is entitled to file/report allegations of unlawful discrimination, sexual, or other forms of harassment, or retaliation to an outside agency. Each agency has its own time frame for filing a complaint. The following represents a summary of the external agencies. Outside employment discrimination jurisdictions are subject change following publication of this document.

- United States Equal Employment Opportunity Commission (EEOC): <https://www.eeoc.gov/>
- State of California Civil Rights Department: [CRD | Civil Rights Department \(ca.gov\)](#)

D. Investigation of Complaint

The EEO Office is responsible for coordinating, assisting, and/or conducting the investigation of alleged violations of Board Policy 260 and this AR. The EEO Office may consult with the Office of the General Counsel when appropriate.

1. Investigation Procedure

The EEO Office will contact the complainant in a timely manner upon receipt of a complaint of discrimination, harassment, or retaliation.

The EEO Office will determine whether the complaint relates to discrimination, harassment or retaliation based on protected status or protected conduct to determine its jurisdiction to investigate the complainant's allegations. If there is sufficient information to support the EEO Office's jurisdiction, the EEO Office will determine whether to invoke Section 3.14 of the ATU CBA and will commence an investigation.

The assigned investigator, whenever possible, will obtain a written, signed statement from the complainant describing the allegations in detail. The assigned investigator will interview the complainant, the charged party(ies), and all relevant witnesses to obtain further information. The assigned investigator will also seek to obtain and retain all documentary and other evidence pertaining to the complaint allegations.

The assigned investigator shall report any failure or refusal to cooperate in the investigation to management to determine whether discipline is appropriate.

2. Report

Upon completion of an investigation, the assigned investigator will prepare a written report that will contain factual findings related to each allegation in the complaint.

3. Conclusion of the Investigation

If the EEO Office concludes that Board Policy 260 or this AR have been violated, the assigned investigator or the EEO Officer will notify the appropriate leadership, which includes, but is not limited to, the Human Resources Department, the Office of the General Counsel, the Department Executive Director, and the Department Director, for determination and implementation of remedial action.

Remedial action for District employees who have violated Board Policy 260 or this AR may include, but is not limited to, discipline up to and including termination, coaching, training,

and other measures that will remedy the situation giving rise to the violation.

In the event there is no finding of a violation of Board Policy 260 or this AR, but there has been a violation of another Board Policy, AR, or District Rules and Regulations, the EEO Office will notify the appropriate leadership, which includes, but is not limited to, the Human Resources Department, the Office of the General Counsel, the Department Executive Director, and the Department Director, for determination and implementation of remedial action.

Violation of Board Policy 260 or this AR by a District contractor/vendor or its employee may cause the termination of the contract, or the contractor/vendor's employee being banned from District property.

The Executive Director, Director, Manager, and/or the Human Resources Department will inform the EEO Office what remedial action was taken for the EEO Office's file.

Upon completion of the investigation, the EEO Office will prepare and provide a closing letter to the complainant and the accused summarizing the findings. The complainant will not be informed of the nature of the disciplinary action taken against an individual who has been found to have violated Board Policy 260 or this AR unless the EEO Office determines it is appropriate to do so.

E. Dissemination of Information

1. Board Policy 260 and this AR, along with a signed statement from General Manager, shall be distributed to all current employees, including new employees upon hire/rehire, and are posted on the District's website and intranet.
2. The same information shall be posted on bulletin boards in lunchrooms, included in employee handbooks and EEO related training, and provided to outside recruitment entities (temporary recruitment/employment agencies).
3. Training on Board Policy 260 and this AR shall be conducted in compliance with state and federal law.

V. RESPONSIBILITIES

A. All Board members, Board Officers, employees, temporary workers, volunteers, paid and unpaid interns, consultants, vendors, contractors, job applicants, and anyone conducting business with the District shall:

- Engage in conduct and behaviors in accordance with the Board Policy 260 and this AR.
- Immediately report any discrimination, including sexual or other forms of harassment, and/or retaliation to a supervisor, Human Resources department, the District's Equal

Employment Opportunity Office (EEO Office), or anyone in a position of leadership, even if the complainant asks you not to report.

- Cooperate in the investigation of violations of Board Policy 260 and/or this AR.
- Maintain and provide any evidence or proof of a potential violation of Board Policy 260 and/or this AR.

B. Board Officers, Executive Directors, Directors, Managers and Supervisors shall:

- Promote awareness and keep subordinate employees within their organizational area informed of Board Policy 260 and this AR.
- Take all necessary steps to prevent and correct unlawful discrimination and harassment, including sexual or other forms of harassment, from occurring within their organizational area.
- Immediately report any/all complaints relating to unlawful discrimination, including sexual or other forms of harassment, and/or retaliation to the District's EEO Office, even if the complainant asks you not to.
- In partnership with the Human Resources department, take appropriate remedial actions when cases of discrimination and/or harassment have occurred.

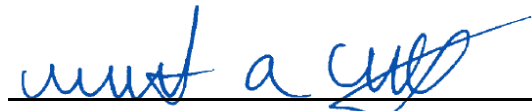
C. EEO Office/Office of Civil Rights and Compliance shall:

- Coordinate training and education for all District employees regarding the implementation of Board Policy 260 and this AR. Training and education shall include distribution of Board Policy 260 and this AR to all employees, including distribution to new employees as part of the District's orientation process.
- Ensure training and education complies with and meets the standards set by applicable federal, state, and local law.
- Investigate or coordinate investigation of complaints of unlawful discrimination or harassment, including sexual or other forms of harassment and retaliation, and advise management regarding corrective action, if applicable.
- Retain confidential records of complaints regarding unlawful discrimination or harassment, including sexual or other forms of harassment and retaliation.
- Monitor all recruitment, selection, placements, and promotions for compliance with Board Policy 260 and this AR.

D. Human Resources Department shall:

- When a finding of Discrimination, Harassment, and/or Retaliation has been made, collaborate with the EEO Office/Office of Civil Rights and Compliance to determine appropriate remedial action based on the nature, frequency, and severity of the conduct and whether any prior discipline has been imposed for a violation of this AR or relevant Board Policies.

Approved by:



Michael A. Hursh, General Manager
Alameda-Contra Costa Transit District