

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☐ Action ☒ Information

MEAD Number:
202357

Resolution:
☒ Yes ☐ No

TITLE:

EEO/Affirmative Action Policy

PRESENTATION SUMMARY:

Staff proposes amending the Equal Employment Opportunity (EEO) and Affirmative Action (AA) Policy Instruction 7.1.1/3.

PURPOSE:

Staff proposes the amended Equal Employment Opportunity (EEO) and Affirmative Action (AA) Policy Instruction 7.1.1/3 for Board approval.

DESCRIPTION:

Metro is updating its EEO/AA Policy for the purpose of:

- Revising names of protected groups to be consistent with other non-discrimination policies;
- Improving the process of reporting and investigating discrimination, harassment, and retaliation;
- Clarifying the EEO officer's authority to mandate corrective actions; and
- Creating a section on the confidentiality of the EEO process

Key Highlights:

Metro is committed to Equal Employment Opportunity and complying with all applicable federal laws that prohibit workplace discrimination and retaliation. Staff request Board of Directors approval of an updated EEO/AA Policy.

Background and History:

Resolution 2011-12 delegated authority to the General Manager/Chief Executive Officer (GM/CEO) to amend any portion of Metro's personnel policies except for its EEO/AA Policy. In accordance with Federal Transit Administration and Office of Federal Contract Compliance Programs requirements, Metro's EEO/AA Policy establishes updated expectations for equal employment opportunity and affirmative action in the organization. The Board of Directors most recently approved Metro's EEO/AA Policy in Resolution 2018-34.

Discussion:

The updated draft policy, accepted by the General Manager on March 7, 2022:

- Revises names of protected groups to be consistent with other non-discrimination policies
- Includes revised procedures that improve the process of reporting and investigating discrimination, harassment, and retaliation
- Clarifies the EEO Officer's authority to mandate corrective action upon a finding of discriminatory practices or behaviors
- Creates a section on the confidentiality of the EEO process

The Office of Equal Employment Opportunity will disseminate the EEO/AA Policy as well as the revised Anti-Harassment and Non-Retaliation policies throughout the Authority. Training on the updated policy will continue and additional classes will be added as needed. Staff will develop a communication strategy that will be used to reinforce the Authority's commitment to providing employees with a workplace free from discrimination, harassment, and retaliation.

FUNDING IMPACT:

There are no current or potential funding costs associated with the request for Board approval of the policy.	
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Project Manager:	Jan M. Bryant
Project Department/Office:	Office of Fair Practices/ Office of Equal Employment Opportunity

TIMELINE:

Previous Actions	3-7-22 GM/CEO acceptance of EEO and Affirmative Action Policy
Anticipated actions after presentation	Dissemination of approved policy to staff. Approved policy will be placed on WMATA intranet.

RECOMMENDATION:

Board approval of the updated Equal Employment Opportunity/Affirmative Action policy.

PRESENTED AND ADOPTED: May 26, 2022

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY

2022-12

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, On February 24, 2011, the Board of Directors delegated to the General Manager/Chief Executive Officer authority to amend all personnel policies, except for the policy regarding Equal Employment Opportunity and Affirmative Action (EEO/AA Policy) which is a Board-level policy (Res. 2011-12); and

WHEREAS, On September 27, 2018, the Board approved an updated EEO/AA Policy (Res. 2018-34); and

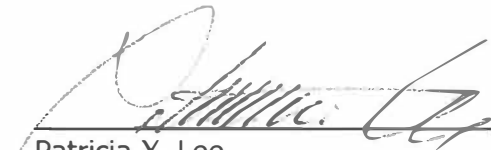
WHEREAS, Staff recommends that the Board approve a further updated EEO/AA Policy (set forth in Attachment A) which revises names of protected groups for consistency with other non-discrimination policies, improves the reporting and investigation process, clarifies the EEO officer's authority to mandate corrective actions, and adds provisions regarding confidentiality;

NOW, THEREFORE, be it

RESOLVED, That the Board of Directors approves the attached Equal Employment Opportunity and Affirmative Action Policy/Instruction as set forth in Attachment A to this Resolution and rescinds all prior versions of that Policy/Instruction; and be it finally

RESOLVED, That as this Resolution deals solely with internal management of WMATA, it shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
Executive Vice President and General Counsel

WMATA File Structure No.:
7.2 Equal Employment Opportunity (EEO)

**Motioned by Mr. Smedberg, seconded by Mr. Letourneau
Ayes: 7- Mr. Smedberg, Mr. Zappi, Ms. Kline, Mr. Letourneau, Dr. Hadden Loh, Mr. Drummer and Ms. Martin-Proctor**


POLICY/INSTRUCTION:
7.1.1/3
Equal Employment Opportunity and Affirmative Action
SUPERSEDES: P/I 7.1.1/2
APPLICABLE TO: All Metro employees and applicants

METRO RESERVES THE RIGHT TO ELIMINATE, CHANGE, OR MODIFY THIS POLICY AT ANY TIME. ADDITIONALLY, THE LANGUAGE USED IN THIS POLICY SHOULD NOT BE CONSTRUED AS CREATING A CONTRACT OF EMPLOYMENT BETWEEN METRO AND ANY OF ITS EMPLOYEES OR OTHERWISE ALTERING AN EMPLOYEE'S AT-WILL EMPLOYMENT RELATIONSHIP WITH METRO.

1.00 PURPOSE

- 1.01 The Washington Metropolitan Area Transit Authority (Metro) is committed to Equal Employment Opportunity (EEO) and to complying with all applicable federal laws that prohibit workplace discrimination and retaliation. Metro strictly prohibits all discrimination on the basis of race, ancestry, color, age, national origin, ethnicity, religious creed or belief, disability, marital or familial status, genetic information, military or veteran status, sex (including pregnancy, childbirth, breastfeeding, or related medical condition), gender (including gender identity and gender expression), sexual orientation, citizenship status, or any other status or classification protected by applicable federal laws. Metro will also make reasonable accommodations for disabled applicants and employees, and for the sincerely held religious beliefs of applicants and employees depending upon individual circumstances.
- 1.02 This commitment extends to all areas of personnel actions, including but not limited to advertising, recruiting, hiring, training, evaluation, promotion, transfer, work assignments, accommodation requests, requests for leave, compensation, benefits, disciplinary actions, layoffs, discharges, terminations, participation in company activities, programs, or events, or any other terms, conditions, or privileges of employment.

2.00 SCOPE

This policy applies to all Metro employees and applicants.

3.00 DEFINITIONS

- 3.01 **Applicant** - any person who submits an expression of interest in employment for a specific job opening at Metro.
- 3.02 **Employee** - a person employed by Metro.

4.00 RESPONSIBILITY

- 4.01 The Board of Directors is responsible for approving policies that ensure Metro complies with all applicable federal laws governing nondiscrimination in employment and EEO, Federal Transit Administration (FTA) rules and regulations, as well as engaging in affirmative action measures regarding applicants and employees. The Board authorizes the General

APPROVED BY	DATE APPROVED	CLASS	LEAD	DATE OF LAST REVIEW	PAGE
A P P R O V E D By General Manager & Chief Executive Officer Paul J. Wiedefeld	03/07/2022	FAIR	IBOP	03/04/2022	1 of 6

**POLICY/INSTRUCTION:**
7.1.1/3**Equal Employment Opportunity and Affirmative Action****SUPERSEDES: P/I 7.1.1/2****APPLICABLE TO: All Metro employees and applicants**

Manager/Chief Executive Officer (GM/CEO) to delegate authority to accomplish these objectives, and to revise this policy as necessary for legal compliance.

- 4.02 The GM/CEO is responsible for executing and issuing an EEO policy statement that complies with applicable federal laws and FTA requirements, designating an EEO Officer who has full authority with respect to EEO and affirmative action, giving the EEO Officer support and assigning sufficient staff to successfully carry out the EEO Program.
- 4.03 The EEO Officer (currently the Director of Fair Practices (FAIR)) is delegated by the GM/CEO with full authority to plan, develop, manage and administer Metro's EEO and affirmative action policies and programs.
- (a) Reports directly to the GM/CEO on the status and implementation of the EEO Program.
 - (b) Responsible for developing and implementing the programs and practices that support the goal of EEO and affirmative action, including compliance with the FTA EEO Circular, as amended, and applicable Office of Federal Contract Compliance Programs (OFCCP) regulations.
- 4.04 The Senior Vice President and Chief Human Capital Officer (SVP-CHCO) is responsible for advising employees and applicants of position entrance requirements, training programs, and professional development opportunities; ensuring new employees acknowledge in writing that they have received, read and understand this policy; conducting training for employees, managers, and supervisors; and stating in all recruitment ads that Metro is an equal employment opportunity employer.
- 4.05 The Director of Labor and Employee Relations or designee is responsible for working collaboratively with the EEO Officer to ensure recommended corrective actions are taken and providing written consent to management before any personnel action is taken regarding employees who have engaged in protected activity.
- 4.06 Managers and supervisors are responsible for carrying out the provisions of this policy and the EEO Program; cooperating with the EEO Officer in investigations of discrimination; encouraging employee participation to support the advancement of the EEO Program; and ensuring employees and applicants who file complaints under this policy are not subjected to retaliation, penalty or any resulting differences in treatment.
- 4.07 The Vice President & Chief Procurement Officer (VP-CPRO) is responsible for requesting EEO Program documentation from contractors who meet the EEO Program threshold and providing contractor EEO Programs to the EEO Officer.
- 4.08 Employees are responsible for:
- (a) complying with this policy;
 - (b) fully cooperating in an investigation initiated under this policy;

APPROVED BY**DATE
APPROVED****CLASS****LEAD****DATE OF LAST REVIEW****PAGE****A P P R O V E D**

By General Manager & Chief Executive Officer Paul J. Wiedefeld

03/07/2022

FAIR

IBOP

03/04/2022

2 of 6

**POLICY/INSTRUCTION:**
7.1.1/3**Equal Employment Opportunity and Affirmative Action****SUPERSEDES: P/I 7.1.1/2****APPLICABLE TO: All Metro employees and applicants**

- (c) maintaining the confidentiality of matters pertaining to the investigation and investigatory process and not engaging in workplace discussions about a complaint or investigation; and
- (d) immediately reporting matters covered by this P/I to their managers, supervisors or the EEO Officer.

5.00 POLICIES AND PROCEDURES**5.01 Affirmative Action and EEO Program**

- (a) Metro has established Affirmative Action Programs (AAPs) under Executive Order 11246, Section 503 of the Rehabilitation Act, and the Vietnam Era Veteran's Readjustment Assistance Act of 1974.
- (b) The EEO Officer shall develop AAPs for qualified individuals with disabilities and protected veterans that satisfy all OFCCP requirements and applicable FTA requirements.
- (c) The EEO Officer will make the AAPs available for inspection by any employee or applicant upon request.
- (d) The EEO Officer shall develop an EEO Program that complies with applicable federal laws, including applicable FTA rules and regulations.

5.02 Reporting and Investigation Procedures

Employees or applicants who witness or believe they have been subjected to discrimination or harassment are encouraged to promptly bring such claim to the attention of their managers, supervisors, and/or management, including the EEO Officer. Employees are not required to report violations of this policy to their supervisors, managers, or any other person engaging in the unwelcome behavior if that supervisor, manager, or other person is the subject of the report.

- (a) All supervisors or managers who witness any discriminatory or harassing misconduct, or receive complaints of such misconduct, are required to immediately report the conduct to the EEO Officer.
- (b) Employees or applicants who believe they have been subjected to or witnessed violations of this policy may file a written complaint with the EEO Officer using the following contact information:

EEO Officer Number (202) 962-1082, OEEHHotline@wmata.com

Any Employee or Applicant who believes the facts or the circumstances make it inappropriate to file a written complaint with the EEO Officer may report the matter

APPROVED BY	DATE APPROVED	CLASS	LEAD	DATE OF LAST REVIEW	PAGE
A P P R O V E D By General Manager & Chief Executive Officer Paul J. Wiedefeld	03/07/2022	FAIR	IBOP	03/04/2022	3 of 6

**POLICY/INSTRUCTION:**
7.1.1/3**Equal Employment Opportunity and Affirmative Action****SUPERSEDES: P/I 7.1.1/2****APPLICABLE TO: All Metro employees and applicants**

immediately to the SVP-CHCO, who will then serve in the role of EEO Officer for the matter.

- (c) This policy is not intended to prohibit employees or applicants from filing complaints with the U.S. Equal Employment Opportunity Commission.
- (d) Employees or applicants who elect to file a written complaint with the EEO Officer are encouraged to do so within 30 calendar days of the alleged discriminatory act(s) to ensure a timely resolution. The complaint should be submitted to the EEO Officer in person or through the email address provided above.
- (e) The written complaint should provide the following information to the extent possible:
 - (1) The protected class (i.e. race, sex, age, etc.) basis of the alleged discrimination.
 - (2) Name(s) and title(s) of the individuals who allegedly engaged in the discriminatory behavior.
 - (3) A detailed description of the alleged discriminatory act(s) or behavior including all pertinent facts and circumstances.
- (f) The EEO Officer shall decide whether the complaint warrants investigation. If the EEO Officer determines that the complaint does not warrant investigation, the EEO Officer shall provide written notice to the complainant.
- (g) If the EEO Officer determines that an investigation is warranted, the EEO Officer shall promptly initiate the investigation process and provide notice to the complainant.
- (h) After concluding the investigation, the EEO investigator shall prepare a written report of investigation that includes a statement of the allegations, factual findings and conclusions based on the evidence collected.
- (i) In those instances where the investigation is referred to Metro's Office of General Counsel (COUN) and is under the supervision and direction of COUN, all communications shall be conducted at the express and sole directions of COUN.
- (j) The EEO Officer has, except as noted in subsection (i), final approval authority over the investigation findings and authority to require corrective actions, if any.
- (k) Upon the EEO Officer's direction, management will promptly implement appropriate corrective actions and provide documentation of the corrective action taken to the EEO Officer.
- (l) The EEO Officer will provide the complainant with a summary of the investigation outcome.

APPROVED BY**DATE
APPROVED****CLASS****LEAD****DATE OF LAST REVIEW****PAGE****A P P R O V E D**

By General Manager & Chief Executive Officer Paul J. Wiedefeld

03/07/2022

FAIR

IBOP

03/04/2022

4 of 6

**POLICY/INSTRUCTION:
7.1.1/3****Equal Employment Opportunity and Affirmative Action****SUPERSEDES: P/I 7.1.1/2****APPLICABLE TO: All Metro employees and applicants****5.03 Non-retaliation**

- (a) Metro strictly prohibits retaliation in any way against anyone who has in good faith reported, pursued a complaint about, cooperated or participated in an investigation of, or opposed harassment, discrimination, or retaliation.
- (b) It is a violation of Metro policy for an employee or applicant to be disciplined, or otherwise disadvantaged, for properly following the procedures described in this policy.
- (c) Persons engaging in any form of retaliation will be subject to disciplinary action, up to and including termination.
- (d) Supervisors and managers must obtain the written consent of the Director – Labor and Employee Relations and/or designee before taking any personnel actions against an employee who has exercised rights under this policy.
- (e) Employees who believe they have been subject to retaliation under this policy, or have observed retaliation, should report the retaliation immediately to the EEO Officer.

5.04 Pay Transparency

- (a) Metro will not discharge or in any other manner discriminate or retaliate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant.
- (b) Employees who have access to the compensation information of other employees or applicants as a part of their essential job functions may not disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is:
 - (1) in response to a formal complaint or charge;
 - (2) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by Metro; or
 - (3) consistent with a legal duty to furnish information.

5.05 Confidentiality

- (a) All reports or complaints of discrimination, harassment, or retaliation made to the EEO Officer will be kept confidential to the extent possible.
- (b) Unauthorized discussions, communications, or correspondence between or among Metro employees or other individuals about matters directly or indirectly related to reports or complaints of discrimination, harassment, or retaliation are strictly prohibited.

APPROVED BY	DATE APPROVED	CLASS	LEAD	DATE OF LAST REVIEW	PAGE
A P P R O V E D By General Manager & Chief Executive Officer Paul J. Wiedefeld	03/07/2022	FAIR	IBOP	03/04/2022	5 of 6

**POLICY/INSTRUCTION:
7.1.1/3****Equal Employment Opportunity and Affirmative Action****SUPERSEDES: P/I 7.1.1/2****APPLICABLE TO: All Metro employees and applicants****6.00 ENFORCEMENT**

- 6.01 Any employee who engages in discrimination, retaliation, or otherwise violates this policy, and any supervisor or manager who knowingly permits such conduct to occur, fails to report such conduct, or otherwise violates this policy will be subject to disciplinary action, up to and including termination.
- 6.02 Employees who fail to cooperate in good faith with the investigative process may be subject to discipline, up to and including termination.

7.00 EXCEPTIONS

Not applicable.

8.00 RELATED POLICIES, REGULATIONS & RESOLUTIONS

- 8.01 Board Resolutions 2004-27, 2011-12 and 2018-34
- 8.02 Title VII of the Civil Rights Act of 1964, as amended
- 8.03 Office of Federal Contract Compliance Programs (OFCCP) Regulations
- 8.04 FTA C 4704.1A - EEO Circular
- 8.05 P/I 7.1.2, Anti-Harassment
- 8.06 P/I 7.1.3, Americans with Disabilities Act – Employment
- 8.07 P/I 7.1.4, Religious Accommodation
- 8.08 P/I 7.1.5, Non-Retaliation

9.00 LIST OF APPENDICES, ATTACHMENTS OR FORMS

Not applicable.

APPROVED BY**DATE
APPROVED****CLASS****LEAD****DATE OF LAST REVIEW****PAGE****A P P R O V E D**

By General Manager & Chief Executive Officer Paul J. Wiedefeld

03/07/2022

FAIR

IBOP

03/04/2022

6 of 6