

Year 2016

Civil Rights Training For Employees

**Designed by
Business Services Division
Diversity and Inclusion Department**

**Santa Clara
Valley Transportation Authority**

**Civil Rights Training
for New Employees**

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2015



Course Goal

To assist transit employees in maintaining a safe and respectful work environment by recognizing and responding to potential harassment issues.



Course Outline

- Review Harassment Issues
- Define Harassment
- Recognize Potential Harassment Issues
- Respond to Harassment Issues
- Strategies for Preventing Harassment in the Workplace



Ground Rules

- Treat others with respect
- No legal advice provided
- No debating policies and procedures
- Please do not discuss specific incidents due to confidentiality



Reasons for Preventing Harassment

- Maintain respect in the workplace
- Reduce workplace conflict
- Compliance with VTA's policy
- Avoid lawsuits and bad publicity



Who Must Comply with VTA's Harassment Policy?

- Employees
- Contractors
- Vendors
- Visitors
- Customers
- The Public
- **Unpaid Interns and Volunteers (new)**



What is Harassment?

- Defined by VTA's policies: Verbal, physical or visual conduct of a racial, ethnic or other type, which, in the employee's opinion is unwelcome, disruptive, interferes with his/her ability to perform his/her job, and/or which creates an intimidating, offensive or hostile environment.
- Demeaning/derogatory/hostile comments or behavior
- Based on a "protected characteristic"



AB2053-New for 2015

- An employer shall also include prevention of abusive conduct as a component of the training and education.



AB2053-Cont'd

- Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, 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.



AB2053-Cont'd

- Significantly, AB 2053 does not change California's anti-harassment or anti-discrimination rules. It does not make "abusive conduct" (or "bullying") illegal.



What are the Protected Characteristics?

- Age
- Ancestry
- Color
- Gender Identity
- GINA
- Marital Status
- Mental or Physical Disability
- National Origin
- Pregnancy Medical Condition
- Race
- Religion
- Religious Creed
- Sex
- Sexual Orientation
- Disabled Veteran
- Vietnam Era Veteran



What is NOT Harassment?

- General teasing
- A supervisor who addresses performance issues with an employee
- An "unfair" work assignment
- A complaint of harassment against another person



Types of Sexual Harassment

- Quid Pro Quo
 - “This for that”
 - Supervisor or manager improperly uses position of authority
 - Request for sexual favors in exchange for job benefits
- Hostile Work Environment
 - Any person can create
 - Inappropriate behavior based on protected characteristics
 - Negatively impacts the workplace



Forms of Harassment

- Physical
 - Unwelcome touching, hugging, caressing, rubbing
- Verbal
 - Demeaning jokes, sexual banter, innuendo, racial slurs, unwelcome nicknames based on protected characteristics
- Visual
 - Sexual or derogatory cartoons, magazines, pictures or posters
 - Inappropriate emails, tattoos or apparel



Methods of Harassment

- Direct
 - Behavior between 2 or more persons
 - Can occur between persons of same gender or ethnicity
- Indirect
 - Impact of behavior on a third party
 - Anyone can be a third party affected by inappropriate workplace behavior



When & Where Does the Policy Apply?

- While on transit property
- Any time performing work-related activities
- During events sponsored by VTA



Retaliation is Prohibited

- What is retaliation?
 - Getting even or getting back at someone
 - Action against a person who complains about harassment or participates in an investigation regarding harassment

Examples: silent treatment, change in work assignment, subject to harsher standards



Recognizing Inappropriate Behavior

- Intentions vs. Perceptions
 - Has there been a violation of VTA's policy?
 - What is the perception of the person impacted by the behavior?
- Reasonable Person Standard
 - Would a reasonable person consider the behavior to be offensive?



Recognizing Inappropriate Behavior

- “Red Light” Behavior
 - STOP! Inappropriate, unsafe, disrespectful
- “Yellow Light” Behavior
 - Risky
- “Green Light” Behavior
 - Appropriate, safe, respectful



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13 Hazard Zones

1. Jokes
2. Cartoons, tattoos, pictures, magazines
3. Inappropriate intra-agency communication (email, radio, internet)
4. Cursing/Profanity
5. Sexual banter/innuendo
6. Unwelcome nicknames
7. Stereotypes



13 Hazard Zones

8. Touching
9. Comments about personal appearance
10. Dating and personal relations
11. Off-premises conduct
12. Retaliation
13. Demeaning or derogatory remarks or behavior based on a protected characteristic



Responding to Potential Harassment Issues

What to do?

- Address the situation
- Report the inappropriate behavior
- Speak out about the inappropriate behavior
- Give feedback to the offending person



Responding to Potential Harassment Issues

What NOT to do:

- Ignore or pretend that the behavior did not occur
- Get even with the person
- Gossip about the behavior to others
- Accuse or verbally attack the person



Tips for Providing Feedback

- Be specific in describing the behavior
- Discuss the impact of the behavior on yourself and/or others
- Request that the behavior not continue



Tips for Receiving Feedback

If you are approached with feedback regarding your behavior:

- Don't automatically get defensive
- Don't accuse the person of being oversensitive.
- Listen with an open mind – see other point of view
- Apologize for behavior if appropriate



How Can Employees Report Concerns?

- Verbally or in writing
- Note specific dates, times, people involved

To whom can employees report their concerns?

- Immediate supervisor
- Any manager or supervisor
- Union representative (if applicable)
- HR, EEO, Labor Relations, or other appropriate designated person or office.



Reporting the Concern

- When should the report be made?
 - Immediately (within 24 hours)
- What should be reported?
 - The facts – who/what/when/where
 - Refrain from speculation & conclusory remarks



Investigations

- Conducted according to VTA policy
- Are confidential to the extent possible
- Vary according to the concern reported
- Determination is made whether a policy was violated
- May result in discipline or other appropriate actions



Strategies for Preventing Harassment

1. Avoid inappropriate behaviors
2. Lead by example; Be a role model
3. Address all concerns
4. Do not engage in demeaning or derogatory physical, visual or verbal behaviors
5. Avoid retaliating against others who report concerns



Questions & Comments?

**Organizational Development
and Training (OD&T)
(408) 321-5600**

Thank you for your participation!





Harassment Prevention for Transit Employees

Participant Workbook



This course was developed by the National Transit Institute at Rutgers, The State University of New Jersey, in cooperation with the U.S. Department of Transportation, Federal Transit Administration, Office of Safety and Security. Several transit agencies have also contributed to this program. These materials are provided for informational purposes only and are solely intended for the use of the transit industry. Use of the materials in this program should first be reviewed for compliance with local procedures and applicable state, federal, and local laws and regulations.

Introduction

As transit employees we have a responsibility to provide a safe and reliable means of transportation to the public. We also have the responsibility to promote and maintain a respectful environment for our co-workers and customers. In addition, all employees and customers expect (and deserve) to be treated with respect when working at or interacting with our transit system. Thus, preventing harassment is an integral part of maintaining cohesive employee and customer relationships including reducing workplace conflict and increasing customer satisfaction.

Course Goal

The goal of this course is to assist transit employees in maintaining a safe and respectful work environment by recognizing and responding to potential harassment issues.

Course Objectives

This course is designed for all employees who work in the transit industry.

After attending this session participants will be able to:

- Identify the potential impact of harassment on the transit organization and its employees
- Review the transit organization's policy against harassment and its key compliance issues and reporting avenues
- Demonstrate skills for recognizing and responding to potential harassment issues
- Discuss strategies for proactively preventing harassment in the transit workplace

Course Outline

The following four modules will be covered in this course:

- Introduction to Harassment Issues
- Defining Harassment
- Recognizing Potential Harassment Issues
- Responding to Potential Harassment Issues

The training session will then be concluded by summarizing strategies for proactively preventing harassment in the transit workplace.



Defining Harassment

Prohibited harassment is defined by your transit organization's policy and may include any inappropriate conduct or behavior that is based on or involves a protected characteristic. In this regard, sexual harassment and all other forms of harassment based on a protected characteristic are prohibited.

Defining “Harassment”

Quid pro quo harassment is defined as:

Hostile work environment harassment is defined as:

Forms of Harassment

Prohibited harassment can be in the form of inappropriate physical, verbal, or visual behavior. It may be direct (i.e., the person targeted is offended) or indirect (i.e., a third party is offended). Examples of prohibited harassment may include (but are not limited to) the following:

- Unwelcome touching of a sexual nature
- “Accidental” brushing up against another person’s body
- Touching another person’s body parts or pinching someone in a sexual way
- Caressing or rubbing up against a person’s body
- Unwanted hugs or other physical contact of a sexual nature
- Sexual banter, sexual innuendo, or discussing a person’s sexual activities
- Spreading rumors about a person’s sexual activities
- Repeatedly asking a person out on a date after they have said “no”



- Commenting on a person's body and/or physical attributes
- Mimicking or making fun of a person's accent, religious attire, disability, or other protected characteristic
- Racial slurs or other derogatory remarks based on color, national origin, disability, age, or other protected characteristic
- Stereotypes based on gender, race, color, national origin, disability, age, or other protected characteristic
- Demeaning or derogatory jokes based on gender, race, color, national origin, disability, religion, age, or other protected characteristic
- Displaying sexually suggestive or racially derogatory pictures
- Sending emails that contain inappropriate sexual material
- Discussions over the dispatch radio that are sexual in nature or demeaning based on a protected characteristic
- T-shirts, tattoos, cartoons, posters and pictures that have inappropriate sexual content or are demeaning based on any of the protected characteristics

Who Does The Policy Apply To?

The prohibition against harassment protects and applies to all employees, supervisors, managers, customers, contractors, visitors, and vendors that interact with your agency.

When And Where Does The Policy Apply?

The prohibition against harassment applies during the following circumstances:

- Any time on the transit organization's property (e.g., transit organization's offices, maintenance facilities, storage yards, or the parking lot)
- Off-premises when performing work-related duties (e.g., on a transit vehicle in the communities you serve, at a transit station during work hours, on a business trip)
- During events sponsored by the transit organization (e.g., holiday party or employee appreciation event paid for by the organization)

Policy Also Prohibits Retaliation

Retaliation against another person who has reported a complaint of harassment, participated, or cooperated in an investigation of a complaint of harassment, or provided information during an investigation of harassment is also prohibited by the transit organization.



Recognizing Potential Harassment Issues

Be aware of behavior within the following areas that may be a violation of the transit organization's harassment policy or other workplace policies:

Jokes: _____

Cartoons, tattoos, pictures and magazines: _____

Email and intra-agency communications: _____

Cursing and profanity: _____

Sexual banter and innuendo: _____

Nicknames: _____



Stereotypes: _____

Touching: _____

Comments based on personal appearance: _____

Dating and personal relationships: _____

Off-premises conduct: _____

Retaliation: _____

Any demeaning or derogatory remarks based on a protected characteristic: _____



Responding to Inappropriate Behavior

Giving feedback to a person who is engaging in inappropriate behavior can sometimes be an effective means of addressing the situation. Thus, all employees should feel free to tell others that their behavior is offensive or inappropriate if they feel comfortable doing so.

Tips for Providing Feedback

Here are few tips for providing feedback to others regarding inappropriate behavior:

- Maintain professionalism
- Be calm and rational
- Provide the feedback as soon as possible after the incident
- Consider avoiding a public discussion in front of others so as not to embarrass the offending person
- Don't accuse the person of being a "harasser" or "retaliator"
- Don't label the conduct as "harassment" or "retaliation"
- Describe the specific behavior and the impact it had on you and/or others
- Request the person discontinue the behavior and not to engage in the inappropriate behavior in the future and/or suggest alternatives to the behavior
- Follow your organization's reporting procedures when appropriate

Tips for Receiving Feedback

The following are a few tips for employees on how to receive feedback from others who view their behavior as inappropriate, are offended by the behavior, and/or that have been negatively impacted by the behavior:

- Don't automatically get defensive
- Refrain from accusing the person of being "oversensitive"
- Listen with an open mind and try to see the other person's point of view
- Apologize for your behavior when appropriate
- If you disagree with the feedback, do so respectfully and professionally
- If necessary, seek assistance from a supervisor to help resolve the situation



Reporting Potential Harassment

All employees are strongly encouraged to report any concerns of potential harassment or retaliation according to the transit organization's reporting procedures. Generally, employees can report these concerns to the following:

- _____
- _____
- _____
- _____
- _____
- _____
- _____

In addition, all supervisors and managers are required to report all actual and potential issues of harassment or retaliation that they personally observe or hear, that they hear about, or that have been directly reported to them. In this regard, concerns of harassment or retaliation cannot be kept "off-the-record" and must be reported to a Human Resources representative or other appropriate designated person in the transit organization.

When and How Can Employees Report a Concern?

Generally, an employee may report any concern regarding a potential issue of harassment or retaliation verbally and/or in writing. This report should occur as soon as possible under the circumstances and according to your transit organization's policies and procedures.

When making a report, the employee should describe the facts as observed, heard, or told to him or her. These facts may include a description of who allegedly committed the inappropriate behavior, what the behavior was, when and where the behavior occurred, and the impact of the behavior on his/herself and/or others. The employee should also describe his or her response and the response of others to the behavior (if applicable).

What Happens After a Complaint is Received?

The organization should take prompt, effective action when a complaint is received. Depending on the circumstances, the actions taken may include conducting an investigation into the allegations of harassment or retaliation and, if a violation is found, taking appropriate disciplinary action where warranted.



Strategies for Preventing Harassment

Employees play an important role in preventing harassment and maintaining a safe and respectful workplace. The following are ways to support this role:

- Avoid engaging in inappropriate visual, physical, or verbal behavior
- Lead by example by always demonstrating professional and courteous behaviors towards others
- Address all concerns about inappropriate behavior in a timely manner



SEXUAL AND OTHER FORMS OF HARASSMENT OR DISCRIMINATION	POLICY	
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1.0 Purpose:

To communicate the Santa Clara Valley Transportation Authority's (hereafter referred to as the Agency) position on the subject of sexual and other forms of harassment or discrimination.

2.0 Scope:

This policy applies to Agency employees, as well as to non-employees who conduct business or interact with Agency employees, on duty or off. The policy applies while on Agency property, off-premises when performing work-related activities, and during events sponsored by the Agency.

2.1 Background:

The Agency's workforce reflects the diversity of the communities it serves. Each employee in the Agency deserves to be treated with respect by other employees. The Agency strives to assure employees that they will not face discrimination or harassment based on sex or any other protected characteristic, or retaliation for reporting or complaining about such conduct. The Agency expects employees to engage in professional working relationships based upon mutual respect with all employees. Sexual and other forms of harassment or discrimination deny that mutual respect and present obstacles to productive, professional working relationships. Inappropriate behavior based on sex or any other protected characteristic, which creates a hostile work environment, may violate the Agency's policy even if it does not rise to the level of a violation of the law, and will not be tolerated.

A. Legal Basis:

The primary legal basis for this policy on sexual and other forms of harassment or discrimination is Title VII of the 1964 Civil Rights Act, as amended, and the California Fair Employment and Housing Act which prohibits discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth or medical condition related to such, as amended by the Pregnancy Discrimination Act of 1978, gender identity, and gender expression), or national origin in employment, and provides legal authority regarding sexual and other protected classes from harassment or discrimination in the workplace.

The guidelines impose absolute liability on the Agency for the acts of supervisors regardless of whether the conduct was known to, or authorized by, or forbidden by the Agency. Similarly, under the guidelines, the Agency may be liable for acts in the workplace committed by non-supervisory employees if the employer knew or should have known of the conduct and failed to take immediate and appropriate action. The Agency may also be responsible for the conduct of non-employees who harass or discriminate against employees in the workplace.

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In addition to establishing standards for imposing liability, the guidelines make employers responsible for developing programs to prevent sexual misconduct in the workplace. Under the guidelines, the Agency must thoroughly investigate all complaints alleging sexual harassment and/or discrimination, and all instances potentially constituting harassment and/or discrimination based on a protected class that come to the employer's attention through means other than formal complaints. Following an investigation, an employer is required to take immediate and appropriate corrective action to stop the harassment, remedy any illegality or policy violation detected and institute efforts to prevent its recurrence. Failure to do so constitutes a violation of Title VII as interpreted by the Equal Employment Opportunity Commission (EEOC).

The guidelines also provide protection against retaliation, making it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, complained to their employer or other covered entity about discrimination on the job, or participated in an employment discrimination proceeding (such as an investigation or lawsuit), regardless of the outcome of the original complaint.

B. VTA Board of Directors

The Agency values each employee and strives to provide a professional work environment based on respect and mutual support. To foster such an environment, no form of discrimination, sexual harassment, or harassment based on age, ancestry, color, marital status, mental or physical disability, national origin, race, religion, creed, sex, sexual orientation, genetic information, gender identity, gender expression, political beliefs, organizational affiliation, veteran status, or retaliation based on participation in an investigation or filing a harassment or discrimination complaint, regardless of outcome, will be tolerated. To ensure this, the VTA Board of Directors (Board) adopted a Policy on Equal Employment Opportunity which declares that no person shall be discriminated against with regard to recruitment, selection, appointment, training, promotion, retention, discipline, or other aspects of employment.

The Board further reaffirms that the Agency will maintain a discrimination-free work environment. Part of maintaining a discrimination-free work environment includes freedom from sexual or other forms of harassment. Therefore, it is important for all employees to know that sexual or other forms of harassment or discrimination will not be tolerated and those who commit acts of sexual or other forms of harassment or discrimination will be subject to discipline, up to and including termination of employment.

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3.0 Policy:

It is VTA's policy to maintain a discrimination-free work environment for all employees. This includes a respectful working atmosphere free from sexual harassment as well as a workplace free from harassment based on age, ancestry, color, marital status, mental or physical disability, medical condition, national origin, race, religion, creed, sex, sexual orientation, or veteran status. In addition, discrimination or harassment based on genetic information, gender expression, gender identity, political beliefs, and organizational affiliation is prohibited. Retaliation based on participation in an investigation or filing harassment or discrimination complaint, regardless of outcome, is also prohibited. Any violation of this policy will receive prompt and appropriate action.

Any employee or prospective employee who experiences sexual or other harassment should immediately contact a supervisor/manager/superintendent, the Civil Rights office, or a union representative. The Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC) may also be contacted.

Furthermore, with regard to this Policy:

- A. Sexual or other harassment will not be tolerated as a form of behavior associated with the work environment by any employee and should be reported by any employee witnessing or subject to the behavior without fear of retaliation.
- B. Such inappropriate practices should be dissuaded through communication, training, and other appropriate methods that will sensitize the employees to sexual or other harassment issues.
- C. All observed and reported instances will be investigated, and appropriate timely corrective action will be taken. When a clear infringement of the rights of others and policy violations is determined, appropriate discipline may range from and include one or more of the following: counseling, training, reprimand, pay reduction, demotion, and even dismissal in cases of gross misconduct or repeated offenses.
- D. Decisions pertaining to hiring, promotion, training, layoffs, and other personnel practices should be applied uniformly based on standards of ability, training, experience, past performance, and other job-related factors and to maintain such standards at a consistently high level.
- E. VTA recognizes the importance of confidentiality. Fact finders, advisers, and others responsible for implementing this policy are required to investigate any complaint or report of potential policy violations but will respect the confidentiality and privacy of individuals experiencing, witnessing, reporting, or accused of violations of the Sexual

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or other forms of Harassment or Discrimination Policy to the extent reasonably possible. Retaliation and/or reprisals against an individual who in good faith reports or provides information about behavior that may violate this policy are against the law and will not be tolerated. This should encourage all employees to report violations without fear of reprisal. Examples of situations where confidentiality cannot be maintained include circumstances when the law requires disclosure of information and when disclosure required by the Agency outweighs protecting the rights of others.

- F. Relationships between employees are not restricted or discouraged. VTA welcomes and encourages teamwork and mutual respect amongst all employees. However, VTA prohibits and will investigate romantic or sexual relationships within “the chain of command.” Where such a relationship exists, the person in the position of greater authority or power will bear the primary burden of accountability, and will be subjected to corrective actions including but not restricted to transfer outside the chain of command so he/she does not directly or indirectly exercise any supervisory or evaluative function over the other person in the relationship. Employees engaging in romantic or sexual relationships in the workplace do so at their own risk. They are subjected to the same policies as other employees and are expected to follow rules of decorum and adhere to the Standards of Conduct (Policy 410). Granting consent to a romantic or sexual relationship in the past or present does not preclude involvement in current or future investigations due to claims of sexual or other harassment or discrimination violations.
- G. This policy prohibits discrimination for or against an employee on the basis of conduct not related to work performance. This includes taking or refusal to take a personnel action, including but not limited to promotion or dismissal of employees who submit to or resist/protest sexual advances or sexual overtures.
- H. In compliance with California legislation, Assembly Bill 1825, all supervisors/managers employed by VTA are required to participate in a minimum of two-hour sexual harassment training at least every two years. All new supervisors/managers will be required to take this training within six months of their hire date.

Any violation of this policy will receive prompt and appropriate action. Any employee or prospective employee who experiences harassment or discrimination should immediately contact a supervisor/manager/superintendent, the Office of Civil Rights (408-321-5571), a union representative, the Department of Fair Employment and Housing (DFEH), the Equal Employment Opportunity Commission (EEOC), or a private attorney. The complaint form can be found on VTA net under Administrative Services.

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Indemnification and Costs:

The question sometimes arises as to whether the Agency will defend and indemnify an employee accused of sexual or other forms of harassment and discrimination. California law provides, in part, “An employer shall indemnify [its] employee for all that the employee necessarily expends or loses in direct consequence of the discharge of his/her duties as such...” The issue of indemnification depends on the facts and circumstances of each situation. Individuals who violate this policy, however, should be aware that they may be required to pay or contribute to any judgments, costs, and expenses incurred as a result of behavior that is wrongful and/or contrary to this policy, including but not limited to fact finding and investigation, litigation costs, and costs to the agency resulting from disruptions to the workplace.

It is important to note that supervisors and managers may be held personally and individually liable for engaging in harassment in the workplace. In this regard, the organization’s general liability insurance coverage may not cover the defense or judgment in cases where supervisors or managers have committed harassment and/or acted outside their scope of employment. Thus, supervisors and managers should always monitor their own conduct to prevent being exposed to such personal risk.

4.0 Definitions:

4.1 Harassment in General

Verbal, physical, or visual conduct of a racial, ethnic, or other prohibited type, which, in the recipient’s opinion is unwelcome, disruptive, interferes with his/her ability to perform his/her job, and/or which creates an intimidating or hostile work environment.

4.2 Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
2. Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for employment decisions affecting such individual; or

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3. Such conduct has the purpose or effect of interfering with the individual's ability to perform his/her job, and/or which creates an intimidating, hostile, or offensive work environment.

All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment is a form of employee misconduct which is demeaning to another person and undermines the integrity of the employment relationship.

Sexual harassment may occur between employees regardless of their relationship. It is not limited to supervisor/subordinate relationships. The initiator (harasser) and the recipient (victim) may be a woman or a man. The recipient does not have to be of the opposite sex. The recipient does not have to be the person harassed, but could be anyone affected by the offensive conduct (third party harassment). The conduct need not be motivated by sexual desire to constitute sexual harassment.

Sexual harassment does not refer to occasional compliments. Sexual harassment may include, but is not limited to, actions such as:

- Displaying sexually suggestive materials or objects (such as magazines, photographs, calendars, screen saver images, tattoos, etc.);
- Electronically sending sexually suggestive email messages, cell phone texts, photographs, or videos;
- Leering, or staring up and down a person's body;
- Making sexual gestures;
- Sex-oriented verbal "kidding" or abuse, sexual jokes, or comments about a person's body;
- Subtle or overt pressure for sexual activity, repeated flirtation or propositions;
- Physical contact such as grabbing, patting, pinching, touching, or brushing against another's body;
- Demands for sexual favors, accompanied by implied or overt promises of preferential treatment or threats concerning an individual's employment status.

4.3 Quid Pro Quo:

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“Quid Pro Quo,” a Latin term meaning “this for that,” refers to a type of sexual harassment that occurs between a person in a position of authority (such as a manager or supervisor) and a subordinate employee. Quid pro quo harassment occurs when a manager or supervisor demands sex or sexual favors from a subordinate employee in exchange for the granting of job benefits (e.g., promotion or a raise), or threatens to take such job benefits away (e.g., demotion or termination) if the subordinate employee does not submit to such demands.

Generally, only conduct or behavior by a manager, supervisor or superior can be considered “quid pro quo” harassment. Such relationships are inappropriate since the subordinate does not have clear freedom of choice in the relationship, and therefore mutuality is undermined.

While in general, dating is not prohibited in the workplace, dating within the “chain of command” is prohibited due to inherent quid pro quo issues, and dating between supervisors and subordinates who are not within the same chain of command is strongly discouraged, as there is still the potential for quid pro quo issues due to the imbalance of power in the relationship.

4.4 Hostile Work Environment:

The term “Hostile Work Environment” refers not only to sexual harassment, but to all other forms of harassment prohibited under the Agency’s policy. Hostile-work-environment harassment is unwelcome sexual conduct or other inappropriate, demeaning, or derogatory behavior based on a protected characteristic that has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile, or offensive work environment. According to the EEOC, a hostile work environment claim can be based not only upon sex, but also on race, national origin, religion, color, age, or disability. As the EEOC notes, “Federal law does not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious.” The conduct must be sufficiently frequent or severe to create a hostile work environment or result in a “tangible employment action,” such as disciplinary action, demotion, or termination.

4.5 Unwelcome Behavior:

Inappropriate behavior that is “unwelcome” is prohibited under the policy. A behavior is deemed unwelcome when the recipient did not solicit or invite the behavior, or when the behavior is regarded as undesirable by the recipient. In addition, there may be times when conduct that is welcome by another person may still violate the Agency’s harassment policy. For example, even if one employee asked to hear a sexual joke and engaged in sexual banter with another employee, the behavior may still be deemed

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inappropriate in the workplace because the Agency's policy prohibits such behavior, and because of the impact it may have on third parties. Thus, such behavior may elicit disciplinary consequences even if the immediate recipients do not object to it. The same applies to behavior that was previously overlooked or tolerated but no longer is condoned.

4.6 Retaliation:

Retaliation is an illegal practice of harassing, treating someone differently, or taking an adverse employment action against an employee, because of his/her participation in a protected activity such as filing a complaint or grievance, voicing opposition to discrimination in the workplace, or serving as a witness in a workplace investigation or lawsuit. Retaliation can be any behavior that is likely to deter a reasonable worker from engaging in the protected activity.

When an employer takes adverse action against an employee engaging in a protected activity, the employer's action could be deemed retaliatory. However, an employer's actions such as a supervisor assigning work to an employee, a supervisor rendering a business decision, or a supervisor rejecting an employee's request, do not equate to retaliation as long as the supervisor's decisions are based on work related reasons or factors.

5.0 Responsibilities:

A. All Employees:

All employees are responsible for ensuring that sexual or other harassment or discrimination does not occur in the Agency workforce. They will comport themselves in a manner that ensures compliance with the agency policy while at work, reporting for work, on Agency premises, or at any time when representing the Agency or dealing with another Agency employee.

Any employee who believes that she or he has been the recipient of sexual or other harassment or discrimination or who is aware of such an occurrence has an obligation and a duty to report the potential policy violation to a supervisor, manager, union representative, or the Office of Civil Rights so that appropriate corrective action may be taken. Such individuals are also encouraged to confront the person who allegedly is doing the violation and request that they stop the behavior, unless the individual feels such confrontation could lead to retaliation or greater harassment or discrimination.

B. Supervisors, Managers, Directors, and Division Heads:

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SEXUAL AND OTHER FORMS OF HARASSMENT OR DISCRIMINATION	POLICY	
	Document Number:	BSD-2120
	Version Number:	02

1. Directors and division heads are accountable for and supervisors and managers are responsible for taking all steps necessary for the prevention and correction of sexual or other forms of harassment and discrimination in their areas of responsibility and within the organization.
2. Supervisors and managers at all levels are responsible for:
 - a. Ensuring employees under their areas of responsibility are aware of, understand, and abide by this policy. This includes discussion of the subject and providing training to employees, visitors, vendors, and consultants regarding each one's responsibility in preventing and reporting sexual or other forms of harassment and discrimination in the workplace.
 - b. Ensuring all personnel decisions in their areas of responsibility are made in accordance with this policy.
 - c. Expressing strong disapproval and zero tolerance of sexual or other forms of harassment or discrimination by informing employees, visitors, vendors, and consultants of possible penalties for violations of the policy and ensuring its implementation.
 - d. Ensuring procedures for submission of complaints of sexual or other forms of harassment and discrimination are provided to employees, vendors, and consultants. These procedures will include Agency-wide and Departmental procedures, alternative avenues for complaints should the complainant be dissatisfied with the departmental response, and a listing of appropriate disciplinary actions which may include termination when acts of sexual or other forms of harassment or discrimination occur.
 - e. Performing preliminary information gathering and fact finding for policy violations when suspected, witnessed, or brought to their attention, whether the affected individuals are under their area of responsibility or not, and/or reporting the potential violations to their supervisor, and the Office of Civil Rights for further investigation.
 - f. Initiating and following-up on corrective action with the assistance of the Office of Civil Rights when offenses merit so.

C. Visitors, Vendors, and Consultants:

All visitors, vendors, and consultants must abide by Agency rules, policies, procedures, and guidelines while on Agency property or while conducting, supporting, or utilizing Agency services or business.

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SEXUAL AND OTHER FORMS OF HARASSMENT OR DISCRIMINATION	POLICY	
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D. Office of Civil Rights:

1. The Office of Civil Rights is responsible for the following:
 - a. Referring outside agency charges and complaints to General Counsel.
 - b. Consulting with General Counsel in cases indicating the potential for legal proceedings against the Agency.
 - c. Conducting investigations of alleged or potential violations and advising management on abatement and corrective actions when violations merit such.
 - d. Educating management and employees and informing them of their rights and responsibilities under this policy.
 - e. Informing each employee of her/his responsibility to report violations or conduct inconsistent with proper workplace conduct under this policy.
 - f. Counseling employees and providing assistance in addressing real or perceived violations of the Sexual and Other Forms of Harassment or Discrimination Policy when warranted.
 - g. Providing Sexual Harassment Prevention Training (AB1825)

The Agency complies with California legislation, Assembly Bill 1825 that requires employers with 50 or more employees to train supervisors every two years on sexual harassment prevention. Such training must be conducted via “classroom or other effective interactive training,” by “trainers or educators with knowledge and expertise” in preventing harassment, discrimination, and retaliation, and must include the following topics:

- Information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention of sexual harassment;
- Information about the correction of sexual harassment and the remedies available to the victims of sexual harassment in employment; and
- Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.

SEXUAL AND OTHER FORMS OF HARASSMENT OR DISCRIMINATION	POLICY	
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2. In all cases where sexual harassment or discrimination has been determined, the Office of Civil Rights will monitor the application of corrective action until such action is completed.
3. In cases where sexual harassment or discrimination has been determined, the Office of Civil Rights will maintain all records. These records will be considered confidential and may be used for report, statistical, and training purposes such as identifying and prioritizing individuals or departments likely to benefit from additional training. Records of all other cases of harassment or discrimination will be kept in the relevant Human Resources, Legal, or Administrative Services department for report and statistical purposes and to ensure confidentiality of records as appropriate or permitted by law.
4. The Office of Civil Rights will be available for consultation with supervisors, managers, union representatives, and other employees regarding the Sexual and Other Forms of Harassment or Discrimination Policy.

E. General Manager:

The General Manager will ensure that the Board's policy prohibiting harassment and discrimination is made known to all Agency employees and that procedures necessary to assure compliance are implemented. This includes communication of the following:

That no person shall be discriminated against with regard to recruitment, selection, appointment, training, promotion, retention, discipline, or other aspects of employment. This includes a respectful working atmosphere free from sexual harassment as well as a workplace free from harassment based on age, ancestry, color, marital status, mental or physical disability, national origin, race, religion, creed, sex, sexual orientation, or veteran status. In addition, discrimination or harassment based on genetic information, gender identity, gender expression, political beliefs, and organizational affiliation is prohibited. Retaliation based on participation in an investigation or filing harassment or discrimination complaint, regardless of outcome, is also prohibited. Any violation of this policy, Federal Law, or other conditions governed by local ordinance will receive prompt and appropriate action and will result in immediate disciplinary action up to and including dismissal.

It is the Agency's policy that any form of abusive, sexist, or racist language by any employee of this agency, by any visitors, vendors, or consultants conducting business with this agency, or by any person(s) appearing on Agency property seeking information or assistance from this Agency or utilizing Agency facilities in the conduct of public meetings will not be tolerated.

SEXUAL AND OTHER FORMS OF HARASSMENT OR DISCRIMINATION	POLICY	
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Employees are advised that any violation of this policy by Agency employees while at work, reporting for work, on Agency premises, or representing the Agency will result in immediate and appropriate discipline up to and including dismissal.

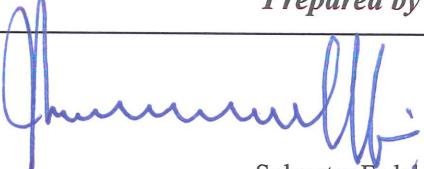
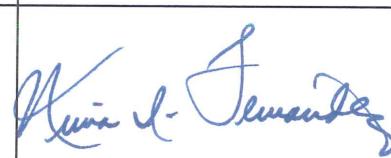
6.0 Summary of Changes:

This policy was updated to the new format on April 18, 2011 and it replaces Policy 417-Sexual and Other Forms of Harassment and Policy 541-Description of Discrimination/Harassment Appeals Process. It addresses updated State and Federal regulations and is subject to periodic review.

This policy was further updated on June 9th, 2016 to be consistent with the amendments to the Fair Employment and Housing Act regulations that took effect in 2016.

This policy, BSD-2120, replaces policy AS-HR-PL-2120.

7.0 Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Sylvester Fadal Deputy Director HR and Diversity Programs	 Alberto Lara Director, Business Services	 Nuria Fernandez General Manager/CEO

I. PURPOSE

To assure the highest level of integrity, moral standards, and organizational reputation. These standards will promote the safe, efficient and harmonious operation of Agency business.

II. POLICY

The Agency's rules regarding unacceptable conduct are established for the guidance of all employees. The following standards comprise a partial list of unacceptable behaviors as a complete list of all violations would not be possible.

Infractions will lead to disciplinary action according to the Agency's policy on Employee Discipline, Policy No. 420.

UNACCEPTABLE CONDUCT INCLUDES, BUT IS NOT LIMITED TO:

- Falsification of Agency records (e.g, employment application, time record, workers compensation claims, etc.).
 - Being under the influence of, possessing, or using alcoholic beverages or illegal drugs, or misuse of prescription or over-the-counter drugs, on Agency premises or while on Agency business.
 - Misuse, damage or destruction of Agency, vendor, customer or coworker property due to careless or willful acts.
 - Negligence in observing fire prevention and safety regulations.
 - Failure to maintain satisfactory and harmonious working relationships with the public and other employees.
-

Standards of Conduct, Continued

- Theft or misappropriation, fraud, gambling, carrying weapons or explosives, or violation of criminal laws on Agency premises.
 - Acceptance of gifts in exchange for favors or influence which could compromise the effective discharge of duties.
 - Fighting, throwing things, horseplay, practical jokes, provoking a fight or other disorderly conduct which may endanger the well-being of any employee or Agency operation.
 - Threatening, intimidating, coercing, using abusive or insulting language. Interfering with the performance of other employees, vendors or customers.
 - Acting in a manner that violates anti-discrimination/harassment practices, policies and procedures.
 - Insubordination or refusal to comply with instructions or failure to perform duties to which assigned.
 - Use of Agency material, time or equipment for the manufacture or production of an article for unauthorized purposes, including personal use.
 - Immoral or indecent conduct.
 - Harassment or unprofessional conduct towards an Agency employee, vendor, contractor, or other individual doing business with the Agency.
 - Unsatisfactory job performance.
 - Excessive or unexcused absenteeism, tardiness, or failure to observe work schedules.
 - Sleeping or malingering on the job.
-

Standards of Conduct, Continued

- Unauthorized release of confidential information.
- Unauthorized circulation of petitions, solicitations, and collections.
- Making or accepting unauthorized or excessive personal telephone calls or facsimile transmissions.
- Leaving the premises while on work status without notifying a supervisor.
- Engaging in practices, conduct, or behavior that are inconsistent with the reasonable rules of conduct necessary to the mutual welfare of the Agency and its employees.
- Engaging in conduct which may discredit the Agency.

III. PROCEDURE AND RESPONSIBILITIES

- A. Supervisors at all levels are responsible for ensuring that the Standards of Conduct are observed.
 - B. In the event of a violation of the Standards of Conduct, supervisors are responsible for reporting such violations to their supervisor and contacting the Labor Relations Department for discussions as to the appropriate action (i.e. disciplinary proceedings).
-

SANTA CLARA COUNTY TRANSPORTATION AGENCY

POLICY NO. 410.1

PERSONNEL POLICY AND
PROCEDURE MANUAL

DATE: 1/02/95
REVISION: 7/17/95

UNACCEPTABLE WORK LANGUAGE

PAGE 1 OF 1

I. POLICY

It is the Agency's policy that any form of abusive, sexist or racist language by any employee of this Agency, by any visitor(s) to this Agency, by any vendor(s) conducting business with this Agency, by any person(s) appearing on Agency property seeking information or assistance from this Agency, or by any person(s) utilizing Agency facilities in the conduct of public meetings will not be tolerated.

II. PROCEDURE

Employees are advised that any violation of this policy by Agency employees, while at work, reporting for work or on Agency premises, will result in immediate and appropriate discipline up to and including dismissal.



EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION POLICY STATEMENT

The Santa Clara Valley Transportation Authority (VTA) is an equal opportunity employer. VTA offers equal opportunity for employment or advancement to all qualified applicants or employees, including recruitment, selection, transfer, promotion, demotion, discharge, layoff, and all other terms and conditions of employment such as benefits, professional development, and pay.

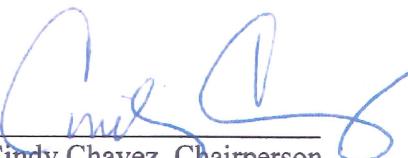
VTA does not and will not tolerate discrimination against applicants or employees on the basis of AGE, ANCESTRY, COLOR, MARITAL STATUS, MENTAL OR PHYSICAL DISABILITY, PREGNANCY, GENETIC INFORMATION, NATIONAL ORIGIN, RACE, RELIGION, CREED, SEX, SEXUAL ORIENTATION, MEDICAL CONDITION, DISABLED VETERAN OR VETERAN STATUS, ETC.

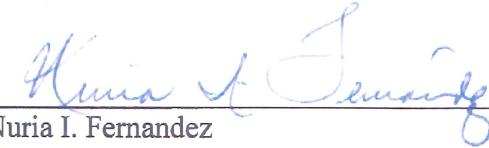
We are committed to equal employment opportunity and a diverse workforce. It is our mandate that all VTA employees and contractors adhere to both the spirit and the letter of this policy by maintaining an environment free from discrimination.

To implement our commitment to equality of opportunity and nondiscrimination, VTA has in place an Equal Employment Opportunity/Affirmative Action Program with goals and timetables to overcome the effects of past discrimination of minorities and women. State and federal executive orders, statutes, and regulations are the legal basis for the program. The successful achievement of these goals will provide benefits through full utilization and development of previously underutilized human resources.

The General Manager has overall responsibility for the Equal Employment Opportunity/Affirmative Action Program. However, the effective implementation of VTA's Equal Opportunity/Affirmative Action Program is the responsibility of all management and employees of VTA. Thus, performance of managers and supervisors will be evaluated on the success of the Equal Employment Opportunity/Affirmative Action Program in the same manner as performance on other agency goals.

On a day-to-day basis, Mitsuno Baurmeister, EEO Officer, closely monitors the Equal Employment Opportunity/Affirmative Action Program. Applicants and employees have the right to file complaints alleging discrimination by contacting the EEO Officer at (408) 321-5600.


Cindy Chavez, Chairperson
Santa Clara Valley Transportation Authority
Board of Directors


Nuria I. Fernandez
General Manager/CEO

DECEMBER 17, 2015
Date

PERSONNEL POLICY AND
PROCEDURE MANUAL

DATE: 1/02/95
REVISED: 7/17/95

EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION

PAGE 1 OF 3

I. PURPOSE

To reaffirm the Agency's continuing practice of non-discrimination in employment and to support the intent, as well as written word, regarding applicable state and federal laws.

II. POLICY

- A. It is the policy of the Santa Clara County Transportation Agency and its Board of Directors that no person shall knowingly be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Agency on the grounds of race, color, national origin or ancestry, religion, sex, age, disabled status, political beliefs, organizational affiliation, sexual/affectional orientation, marital status, medical condition, or because she or he is a veteran.
- B. Further, it is the policy of the Agency that no person shall knowingly be discriminated against with regard to recruitment, selection, appointment, training, promotion, retention, discipline or any other aspect of employment because of race, color, national origin or ancestry, religion, sex, age, disabled status, political beliefs, organizational affiliation, sexual/affectional orientation, marital status, medical condition, or because she or he is a veteran.
- C. It is the goal of the Agency to attain a workforce which includes, in all occupational fields and at all employment levels, ethnic minorities, women and disabled persons in numbers consistent with the ratio of these groups in the relevant labor market.

Equal Employment Opportunity and Affirmative Action, Continued

- D. The Agency recognizes that mere prohibition of discriminatory practices is not enough to remedy the effects of past practices and to permit attainment of an equitable representation of ethnic minorities, women and disabled persons. Proactive, aggressive, continuing actions are required to attain this goal.
- E. Consequently, it is the will of the Board of Directors that the Agency take continuing affirmative action as required to ensure that:
- Employment by the Agency is kept open to all persons regardless of race, color, national origin or ancestry, religion, sex, age, disabled status, political beliefs, organizational affiliation, sexual/affectional orientation, marital status, medical condition, or because she or he is a veteran.
 - Any possible barriers to employment and promotion of ethnic minorities, women, and disabled persons are identified and removed.
 - Proactive, imaginative, continuing efforts are made to attract, retain and promote ethnic minorities, women, and disabled persons in numbers proportional to the relevant labor market.
 - Bilingual and bicultural persons are recruited and employed in all job classifications as needed to provide equitable services to all bilingual, bicultural segments of the community with special emphasis toward the County's Asian and Spanish-speaking residents, and other large identifiable groups.

Equal Employment Opportunity and Affirmative Action, Continued

- F. The Equal Opportunities Office (EOO) Manager or designee will be responsible for coordinating the Affirmative Action Program to assure its implementation in recruitment, hiring, promotions and other personnel actions; to audit periodically the equal opportunity practices; and to provide guidance in resolving problems which may arise. Management personnel at every level share in the responsibility for promoting affirmative action and equal employment opportunity to ensure that compliance is achieved.
 - G. Any questions or concerns regarding this policy should be directed to the EOO Manager.
-



...Is Your Responsibility

VTA values diversity in its workforce and prohibits discrimination, harassment, or retaliation by its employees.

RESPECT IS...

- Protecting the dignity of each and every person at VTA.
- Accepting all people regardless of age, ancestry, color, marital status, mental or physical disability, national origin, race, religion, creed, sex, sexual orientation, or disabled veteran/Vietnam era veteran status.
- No name calling, bullying, making disrespectful sounds, comments, or slurs, telling derogatory jokes, or playing inappropriate radio broadcasts.
- Welcoming all cultural backgrounds, beliefs, and personalities.
- No inappropriate gestures or the display of sexually suggestive or derogatory objects, posters, cartoons, drawings, calendars, websites, email messages, or programs on television.
- Being proactive and stopping disrespectful behavior when you see it happening.
- Following VTA Policy 410 by maintaining satisfactory and harmonious working relationships with the public and other employees.
- No disrespectful behavior such as blocking someone's path, making unwelcome physical contact or sexual advances, using bullying tactics, or assaulting someone.
- Encouraging your friends and coworkers to treat others courteously.
- Never "getting even" or retaliating against someone for speaking out against inappropriate behavior, for reporting discrimination or harassment, or for being a witness during a harassment investigation.

Remember, YOU make VTA a respectful place to work!!

If you believe you have been harassed or discriminated against, or if you have observed harassment or discrimination toward someone else:

REPORT concerns about harassment or discrimination to your supervisor, or to any person of authority in the organization, or to the Diversity and Inclusion Department (408) 321-5600, for immediate and appropriate handling and response which may include an investigation and corrective action.



Harassment Prevention for Transit Employees Post-Test

1. The following are reasons to prevent harassment in the transit workplace:
 - A. Maintain a safe and respectful workplace
 - B. Ensure compliance with the transit organization's policy
 - C. Reduce workplace conflict
 - D. All of the above
2. The transit organization's policy against harassment can be enforced against:
 - A. Employees
 - B. Contractors and vendors
 - C. Customers
 - D. All of the above
3. Which of the following may be considered a form of harassment:
 - A. Another employee calls you a "jerk" in front of others
 - B. A supervisor gives you the worst work assignment in the Department
 - C. An employee repeatedly makes sexual comments towards you
 - D. None of the above
4. Racial harassment is prohibited in the transit workplace:
 - A. True
 - B. False
5. Which of the following is an example of quid pro quo harassment:
 - A. A supervisor fires an employee who refuses to date him
 - B. A supervisor requests sexual favors from an employee she supervises in exchange for giving that employee a promotion
 - C. Both A and B
 - D. Neither A or B
6. Behavior that is welcomed or consented to by others can still violate your transit organization's harassment policy.
 - A. True
 - B. False
7. Harassment can occur:
 - A. Between persons of the same gender or race
 - B. As a result of indirectly impacting a third party
 - C. Between an employee and a customer
 - D. All of the above



8. The transit organization's policy against harassment applies:
- A. While you are on vacation
 - B. When you are home watching Sunday Night Football
 - C. Any time you are performing work-related activities
 - D. None of the above
9. Which of the following is not an example of retaliation:
- A. An employee who "gets even" with another employee who has made a complaint of harassment
 - B. An employee who calls another employee a "jerk" for being late to work
 - C. An employee who "gets back" at another employee who has provided information during an investigation about a complaint of harassment
 - D. A supervisor who disciplines an employee because the employee reported a complaint of harassment against him
10. Which of following factors may be considered in determining whether behavior violated your transit organization's harassment policy:
- A. Whether you intended to offend someone else
 - B. Whether you immediately apologized after engaging in the behavior
 - C. Whether someone else reasonably perceived the behavior as offensive
 - D. Both A and B
11. You will not violate your transit organization's harassment policy if you tell other employees sexual jokes that they do not believe are offensive.
- A. True
 - B. False
12. Which of the following may be considered a form of sexual harassment:
- A. Repeatedly asking another employee out on a date after they have said "no"
 - B. Getting a gift from a customer on your birthday
 - C. Complimenting another employee in a professional manner
 - D. All of the above
13. Which of the following may be inappropriate behavior at your transit organization:
- A. Using the dispatch radio to communicate a safety concern
 - B. Speaking Spanish with another employee while in the break room
 - C. Complimenting another employee on the color of her shirt
 - D. None of the above
14. Which of the following is appropriate behavior at your transit organization:
- A. Hanging a picture of a nude woman in the maintenance shop
 - B. Greeting someone else with a handshake
 - C. Making fun of another employee's national origin
 - D. Being kissed by a customer who has a mental disability



15. Which of the following would not violate your transit organization's harassment policy:
- A. A Road Supervisor talks with an employee about his poor performance
 - B. An employee who comes to work with a screen saver of a naked woman on his cell phone
 - C. An employee who constantly yells at other employees based on their religious beliefs
 - D. All of the above
16. If you are confronted with a potential issue of harassment or retaliation you should:
- A. Give feedback to the person engaging in the offensive behavior if you feel comfortable doing so
 - B. Report your concerns according to your transit organization's policies and procedures
 - C. Both A and B
 - D. Neither A or B
17. Employees may report concerns of harassment or retaliation to:
- A. Their immediate supervisor
 - B. Any supervisor or manager in the transit organization
 - C. A union steward, Human Resources representative, or to EEO/Labor Relations
 - D. All of the above
18. You can have an "off-the-record" conversation with a supervisor or manager regarding a potential issue of harassment if you make this request in writing.
- A. True
 - B. False
19. If you violate your transit organization's policy against harassment you can be:
- A. Given a verbal or written warning
 - B. Demoted
 - C. Suspended or terminated
 - D. All of the above
20. Which of the following can you do to help prevent harassment in the transit workplace:
- A. Avoid inappropriate behavior that may be perceived as harassment
 - B. Lead by example by always modeling professional workplace behavior
 - C. Promptly address all concerns of potential harassment that you experience
 - D. All of the above



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