



Eastern Sierra Transit Authority

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

December 12, 2024 through December 11, 2028

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I. STATEMENT OF POLICY

A. Policy Statement

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

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

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

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

As Eastern Sierra Transit Authority's Executive Director, I maintain overall responsibility and accountability for Eastern Sierra Transit Authority's compliance with its EEO Policy and Program. To ensure day-to-day management, including program preparation, monitoring, and complaint investigation, I have appointed Dawn Vidal, Administration Manager as Eastern Sierra Transit Authority's EEO Officer. Dawn Vidal can be reached by phone at 760-872-1901 x11 or by email dvidal@estransit.com. Dawn Vidal will report directly to me and acts with my authority with all levels of management, labor unions, and employees.

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

Eastern Sierra Transit Authority is committed to undertaking and developing a written nondiscrimination program that sets forth the policies, practices and procedures, with

goals and timetables, to which the agency is committed and make the EEO Program available for inspection by any employee or applicant for employment upon request.

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



Phil Moores, Executive Director Signature

12/4/24

Date

II. DESIGNATION OF PERSONNEL RESPONSIBILITY

A. Equal Employment Opportunity Officer

The Administration Manager for the Authority, is designated as the EEO Officer. In this capacity, the Administration Manager will report directly to the Executive Director.

As the EEO Officer, the Administration Manager's duties and responsibilities will include, but not necessarily be limited to:

- Developing the EEO policy statement and a written EEO Program
- Assisting management/Human Resources in collecting and analyzing employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals
- Designing, implementing, and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where proactive action is needed
- Reviewing the agency's nondiscrimination plan with all managers and supervisors to ensure that the policy is understood
- Concurring in the hiring and promotion process
- In conjunction with human resources, periodically reviewing employment practices policies (e.g., hiring, promotions, training), complaint policies, reasonable accommodation policies, performance evaluations, grievance procedures, and union agreements
- Reporting at least semiannually to the Executive Director on each department's progress in relation to the agency's goals and on contractor and vendor compliance
- Serving as liaison between the agency; Federal, state, county, and local governments; regulatory agencies; and community groups representing minorities, women, and persons with disabilities, and others
- Maintaining awareness of current EEO laws and regulations, and ensuring the laws and regulations affecting nondiscrimination are disseminated to responsible officials
- Investigating complaints of EEO discrimination
- Providing EEO training for employees and managers
- In conjunction with human resources, advising employees and applicants of available training programs and professional development opportunities and the entrance requirements
- Auditing postings of the EEO policy statement to ensure compliance information is posted and up to date.

B. Department Heads, Managers and Supervisors

Although the EEO Officer is primarily responsible for implementing an agency's EEO Program, all officials, managers, and supervisors are responsible for ensuring EEO

and must not discriminate based on a protected class. All managers—from the supervisor of the smallest unit to the Board Chair and Executive Director —bear responsibility for ensuring that agency EEO Program policies and programs are carried out. EEO responsibilities for agency officials, supervisors and managers include:

- Participating actively in periodic audits of all aspects of employment to identify and remove barriers obstructing the achievement of specified goals and objectives
- Holding regular discussions with other managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed
- In conjunction with the EEO Officer, maintaining and updating the personnel database for generating reports required for the nondiscrimination program
- Cooperating with the EEO Officer in review of information and investigation of complaints
- Encouraging employee participation to support the advancement of the EEO Program (e.g., professional development and career growth opportunities, posting promotional opportunities, shadowing, mentoring)

III. DISSEMINATION OF THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Equal Employment Opportunity Program of the Authority will be disseminated to its employees, job applicants, and the community using several communication techniques. The EEO Officer will be responsible for program implementation and will assure that the following are accomplished:

Internal Communications

The existence of its EEO policy and program will be communicated to employees, applicants, and potential applicants by:

- Providing written communications from the Executive Director such as the policy statement
- Posting official EEO materials (e.g., Federal and state labor laws poster(s)) and the agency's policy statement on bulletin boards, near employee boxes, in employees' breakrooms, and in the employment/personnel office
- Including the EEO policy statement in the agency's personnel and operations manual, employee handbooks, reports, and manuals
- Meeting with top management officials (e.g., bus operations, human resources, planning, marketing, etc.) at a minimum semiannually to discuss the EEO Program and its implementation
- Meeting with all employees and affinity groups to seek input on the program implementation
- Conducting periodic EEO training for employees and for managers
- Conducting EEO training for all new supervisors or managers within 90 days

- of their appointment
- Including the policy statement in employee orientation materials and require new employees to sign a form acknowledging they have read and understand the policy.

Documentation that the EEO policy and program have been brought to the attention of employees and managers will be kept. This includes maintaining agendas and sign-in sheets for meetings conducted when the EEO policy and its implementation are explained.

External Policy Dissemination

1. All major recruiting sources, including minority and women's organizations, community agencies, community leaders, vocational and technical schools, and colleges will be informed of the Authority's EEO Program. These sources will be requested to actively recruit and refer minorities and women for all positions within the Authority.
2. When advertisements for employment are placed, they are placed in media that minorities have access to, as well as other news media. All employment advertisements contain the phrase "An Equal Opportunity Employer".
3. The existence and benefits and the Authority's EEO Program will be communicated to private and public employment agencies by dissemination of the Eastern Sierra Transit Authority's Policy Statement.

IV. ASSESSMENT OF PRESENT EMPLOYMENT PRACTICES

It is the policy of the Eastern Sierra Transit Authority to aggressively recruit the most qualified people to staff the Authority; and in doing so, it will afford equal opportunity for employment, selection, training, promotion, compensation and benefits, to all persons without regard to race, color, age (over 40), sex, religion, national origin, disability, medical condition, marital status, genetic information or ancestry, or any other factor not related to the requirements of a work assignment.

The Administration Manager or designee shall be responsible for establishing recruitment, examination and referral procedures and shall be responsible for all employment activity in the Authority. Recruitment activities are monitored on a quarterly basis and have been summarized for this Attachment C – Employment Practices and Assessment Chart

Recruiting Sources

- A. The Authority actively seeks minorities and females for existing and future employment. Recruitment notices are distributed to various sources

including, but not limited to, those agencies listed below:

Cerro Coso Community College
Eastern Sierra College Center
4090 W. Line Street
Bishop, CA 93514

Mono County Workforce Services
workforceservices@mono.ca.gov

Cerro Coso Community College
Eastern Sierra College Center
101 College Parkway
Mammoth Lakes, CA 93546

Owens Valley Career Development
Center
2574 Diaz Lane
Bishop, CA 93514

Employment Development
Department
914 N. Main Street
Bishop, CA 93514

Bishop Paiute Tribe
50 Tu SU Lane
Bishop, ca 93514

Inyo County
Public Assistance & Employment
914 N. Main Street
Bishop, CA 93514

Veterans Services
207 W. South St.
Bishop, CA 93514

Inyo County
Public Assistance & Employment
380 N. Mt, Whitney
Lone Pine, CA 93545

Newspaper advertising is normally placed in the Inyo Register, Mammoth Times and El Sol. The Inyo Register is circulated in the high minority communities located in Inyo County, and the Mammoth Times is circulated in the high minority communities located in Mono County. El Sol is circulated in both Inyo and Mono counties in Spanish. On-line advertising is placed on the Authority website, www.estransit.com.

B. Source of Applications

The majority of applicants gain knowledge of the opening through the state employment office, local newspaper advertisements, www.estransit.com, and through the various organizations receiving a recruitment notice. Applicants may also "walk-in" to the Authority looking for employment.

Professional, technical and managerial applicants may also be the result of local and national newspaper advertising or respondents to recruitment notices sent to various transit properties, public agencies or transit associations.

C. Recruitment and Selection Procedures

The recruitment process begins when the Administration Manager is notified there is a position to be filled and informed of other relevant specifications. All recruitment activity is preceded with a review of the job description to ensure specifications and requirements of the position are current, realistic and necessary. The department head, the Administration Manager and the Executive Director approve openings to be filled.

Human resources post an internal recruitment notice on employee bulletin boards. Classified employment advertising is placed in all appropriate publications. For most positions the Inyo and Mono County publications are adequate. However, for the highly skilled and/or managerial positions, advertisements in national trade publications and publications outside the Eastern Sierra Region may be necessary. Circumstances dictate whether positions will be advertised with a closing date or remain open until filled.

All applicants are required to complete an Authority application. Upon receipt, all applications are recorded on the recruitment log.

Prior to the interview, the hiring manager and human resources meet to develop a program of questions to be used during the interview. The questions are derived from the job description. These questions are approved by the Administration Manager. The applicant's answer to each question is scored on a scale of 1-5, with 5 being the highest score.

The human resources and hiring manager screen all applications and select applicants who meet the minimum requirements of the positions. The most qualified applicants are tested and interviewed by human resources and the department head or their designee, the Administration Manager may be included in the interview process on selected positions. Second level interviews, if deemed necessary, are conducted by the Administration Manager and department head.

The department head and human resources refer one to three qualified candidates to the hiring manager to be interviewed at a second level, if desirable. The hiring manager selects the successful candidate after all interviews are completed. Applicants may be rejected at any point during the recruitment and selection process and will receive written notification of such rejection.

The human resources extend a verbal offer of employment to the successful candidate after checking references and issues a formal offer letter, which is provided to the candidate for signature via mail or in-person. The acceptance letter outlines the terms of employment, including anticipated

start date, rate of pay, and introductory/probationary policies, etc. The offer of employment is contingent on the candidate successfully passing a, background check, drug screen and DMV/employment physical if required for the position, consistent with federal drug-testing requirements and the Americans with Disabilities Act (ADA).

The human resources perform a background investigation through ADP, Inc. The following information is verified and/or reviewed:

1. Present/previous employment
2. Educational degrees and professional certificates (if a job requirement)
3. Driving record (for positions requiring operation of the Authority's vehicles)
4. Criminal record if applicable
5. Social Security number verification
6. Credit history if applicable

If the applicant passes the drug screen and physical, if required, and all background information has been satisfactorily reviewed and verified, the new employee is instructed to report to human resources or the Department Head on the first day of employment for orientation.

D. Description of Aptitude/Selection Tests

Following is a description of aptitude/selection tests administered to job applicants:

1. Typing test: A standard typing test is given to individuals applying for positions requiring a minimum typing speed (i.e., secretary and receptionist).
2. Job-related skills test: Written tests may be given to determine a person's ability to perform the duties of the position. Passing scores are routinely set at 85%. An applicant who does not pass either the job-related skills test(s) or other job-related skills tests may not retest for a period of one year.

E. Seniority Practices, Promotions and Transfer Procedures

1. Seniority is determined by the date of original hiring by the Authority. All employees in the bargaining unit are on probation until they complete six months of employment.
2. It is the Authority's policy to fill job vacancies by promotion or transfer of qualified employees within the organization whenever possible.

The following qualifications are considered when selecting an employee to fill an upgraded position:

- a. Attitude, skill, ability and past performance
- b. Disciplinary record
- c. Attendance record
- d. Safety record
- e. Length of service
- f. Tests results (if position warrants testing)
- g. Interview results

To be considered for promotion, an employee must submit an application to human resources. The procedures outlined in Section V, D are followed for screening, testing, interviewing and selection. An internal candidate will not be required pass a pre-employment physical. However, promotions into safety sensitive positions or positions with increased lifting requirements will require pre-employment physical.

An employee requesting a transfer must submit an application to human resources. The employee's qualifications, as listed above, will also be considered when a transfer is requested. The Executive Director will approve or disapprove the request based on the recommendations of the department head and Administration Manager.

F. Compensation and Benefits

Compensation and benefits schedules are applied without regard to race, color, age, sex, religion, national origin, disability, medical condition, marital status, genetic information, or ancestry.

The following benefits are applicable to benefitted employees:

1. Group insurance benefits, including PERS Health, dental & vision reimbursement, disability and life insurance (as applicable)
2. Comprehensive leave
3. PERS Retirement
4. Flexible Benefit Program
5. Deferred Compensation
6. Employee Assistance Plan
7. Free transportation on ESTA routes for the employee and family members in the same residence.
8. Paid holidays
9. Military leave

10. Jury Duty leave
11. Bereavement leave
12. Leave of absence (with or without pay)
13. All benefits required by State, Federal and local law (i.e. SDI, Workers Compensation, etc.)

The following benefits are applicable to non-benefitted employees:

1. PARS retirement
2. California Sick Leave
3. Deferred Compensation
4. Employee Assistance Plan
5. Free transportation on ESTA routes for the employee and family members in the same residence.
6. All benefits required by State, Federal and local law (i.e. SDI, Workers Compensation, etc.)

G. EEO Investigative Process:

Eastern Sierra Transit Authority's EEO Policy protects applicants and employees from discrimination and harassment that is based on legally protected categories and protects them from retaliation for involvement in the EEO process. All complaints will be handled with confidentiality and with the utmost respect for privacy. Below is an outline of the EEO complaint process for reporting unprofessional or disrespectful behavior.

1. **Contact** ESTA's EEO Officer to discuss complaint. Complaints can be made in writing or reported in person. EEO Office will notify complainant whether complaint is accepted for investigation. Non-EEO issues will be referred to a manager, supervisor or human resources as appropriate.
2. **Investigation-** The EEO Officer interviews the complainant, respondent, and any witnesses, and reviews the evidence. Absent extraordinary circumstances, the EEO Office shall conclude its investigation within 90 days and then will have 30 days to submit a investigative report to the Executive Director.
3. **Determination-** Within 30 days from receipt of the report, the Executive Director will review the findings and communicate a determination to the EEO Officer. An allegation that is not supported by a preponderance of the evidence means that, based on the evidence, it is not likely that there was a violation of the EEO Policy. An allegation that is supported by a preponderance of the evidence means that, based on the evidence, it is more likely than not that there was a violation of the EEO Policy
4. **Closing Notices-** EEO Officer will send closing notices to the parties after the Executive Director has made a determination

H. Terminations and Disciplinary Practices

All employees serve an introductory period of six (6) months. The introductory period is a span of time during which an employee is evaluated by his/her supervisor on the performance of the duties of the position, and on those qualities that comprise the overall make-up of the employee including attendance, reliability, trustworthiness, etc. If problems begin to occur, the immediate supervisor and the EEO Officer will counsel the employee.

If at any time during the introductory period an employee is performing in an unsatisfactory manner, and it is determined that the performance cannot improve, the employee will be released without recourse. The reasons for removal will be clearly defined and applied consistently. The release will be reviewed and approved by the EEO officer and the Executive Director to ensure consistency and non-discriminatory. If it is determined that the employee may be able to improve their performance, the introductory period may be extended as described in ESTA's Personnel Rules.

If the evaluation indicates satisfactory performance at the end of the employee's introductory period, the employee will achieve regular status.

If a regular employee begins to perform in an unsatisfactory manner, the immediate supervisor will discuss job performance with the employee. The employee will be given a period of time to improve his/her performance. The employee may be dismissed or otherwise disciplined if no improvement is noted at the end of this period.

Hourly/union employee disciplinary and termination procedures are in accordance with the provisions of collective bargaining agreements with the Eastern Sierra Transit Authority Employees Association, and the Management & Confidential Employees Association. These documents outline the disciplinary actions to be taken when dealing with indefinite suspensions, suspensions for term, loss of pay and oral and written reprimands. Reasonable accommodations will be made for members with disabilities.

Disciplinary and termination actions are monitored on an on-going basis, reported on quarterly., Decisions will be made in a manner consistent with EEO principles.

V. **MONITORING AND REPORTING SYSTEMS**

A. Quarterly Reporting

On a quarterly basis, information regarding the number of employees hired,

promoted, resigned, retired, or terminated, etc., will be compiled by the human resources. The data will be synthesized by race, sex, and job classification and submitted to the Administration Manager.

B. Semi-Annual Review and Annual Review

Semi-annually, the Administration Manager will review with the Executive Director a summary of the progress made over the preceding six (6) months. Assessments and corrective action will be made at this time. An annual report will be prepared by the Administration Manager, which will include the information gathered in the quarterly reports and an evaluation of the Equal Employment Opportunity Program.

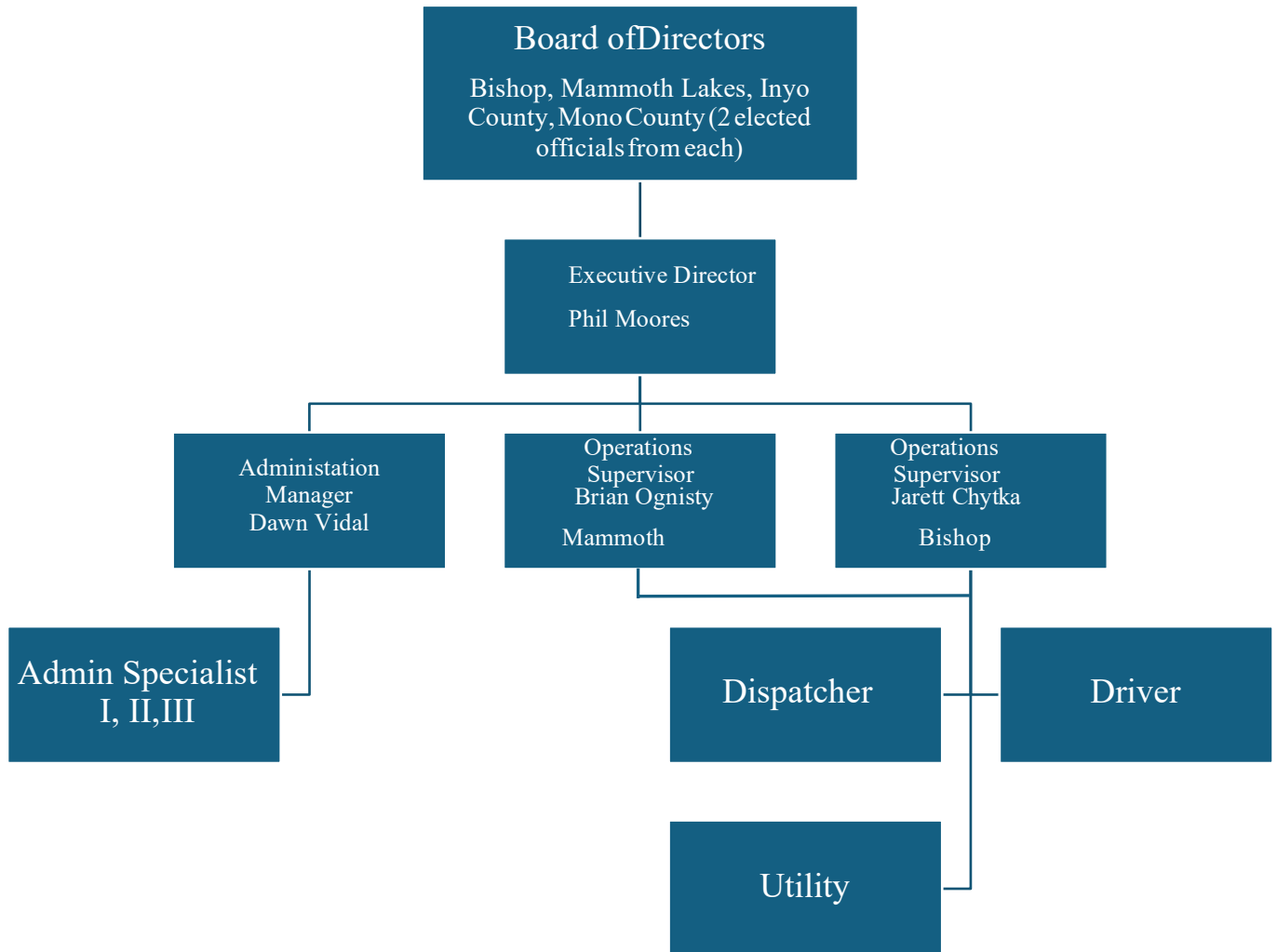
The evaluation process will highlight the policies and objectives that were accomplished, as well as pinpoint those areas in which the Authority failed to achieve the objectives within the timetables that were set. The evaluation process will allow the EEO Action Officer to amend and reset the existing objectives as well as identify other areas of underutilization and develop new objectives with timetables to remedy these deficiencies.

C. EEO Complaint Tracking

The Administration Manager maintains a log of all discrimination complaints. The log includes complainant name, parties involved, date of incident/complaint, list of complaint(s) and current status. This log is updated as complaints arise. Once complaint is investigated the log is updated.

Attachment A

Eastern Sierra Transit Authority's Organizational Chart



Attachment B
List of Subrecipients or Contractors Monitored by
Eastern Sierra Transit Authority

Eastern Sierra Transit Authority does not have any contractors payed with Federal funds.

Attachment C Required Training for Supervisors

In addition to the video training on the California JPIA website ([Supervisor Skills Respect, Integrity & Inclusion](#)) The following information is provided and discussed:

Managing Equal Employment Opportunity

March 17, 2022 SHRM

Overview

Public policy regarding equal employment opportunity (EEO) is expressed in constitutions and more particularly in anti-discrimination laws. In the United States, these laws exist at the federal, state and local levels. EEO laws vary greatly from one place to another in terms of employers or other entities they cover, the particular classes of persons they protect, the transactions they regulate, and the type and extent of legal remedies they provide for. The philosophical concept of EEO arises, at least implicitly, whenever employers engage employees. The methods a government uses to regulate equal employment opportunity are another manner. U.S. employers operating abroad and foreign employers operating in the United States must be mindful of relevant EEO requirements. Employers in other global contexts also need to know what standards govern their practices.

U.S. EEO laws are applicable to numerous employer actions, and HR professionals should be fully aware of their broad reach. A body of effective best practices was developed to reduce EEO complaints and to manage them effectively when they do occur.

What Is an Employment "Opportunity"?

U.S. EEO laws prohibit discrimination on the basis of stated characteristics in terms and conditions of employment. As such, "opportunities" exist in numerous employment contexts, including:

- Internal and external recruiting.
- Applications for employment.
- Interviewing job candidates.
- Pre-employment testing.
- Background investigations.
- Hiring.
- Compensation.
- Benefits.
- Perquisites (also known as perks) or employee services.
- Working conditions.
- Dress and appearance.

- Leave management.
- Disciplinary actions.
- Promotions, transfers or demotions.
- Exercise of legal rights.
- Downsizing, layoff or reductions in force.
- Termination.

Protected Classes of Persons in the United States

A collection of federal laws and executive orders make it illegal to discriminate in the terms and conditions of employment based one or more of the following characteristics:

- Race.
- Color.
- Ethnicity/national origin.
- Sex.
- Sexual orientation.
- Gender identity or expression.
- Pregnancy.
- Religion, belief and spirituality.
- Age.
- Disability.
- Use of family and medical leave.
- Military status.
- Genetic information.

Federal laws

The following U.S. federal laws prohibit certain types of employment discrimination:

- The Civil Rights Act of 1866 was passed to implement the 13th Amendment to the U.S. Constitution. It contains a provision that grants all persons the same right to "make and enforce contracts . . . as is enjoyed by white citizens."¹
- The [Equal Pay Act of 1963](#) applies to employers with two or more employees and to labor unions. The law prohibits discrimination in compensation based on sex in relation to jobs that require equal skill, effort or responsibility and that are performed under similar working conditions.

- [Title VII of the Civil Rights Act of 1964](#) applies to employers with 15 or more employees, each working 20 or more weeks in the current or preceding calendar year; state and local government; employment agencies; labor unions; and U.S. citizens employed by U.S.-owned or controlled companies in foreign countries. Title VII prohibits discrimination based on race, color, national origin, sex (including sexual orientation and gender identity or expression) and religion.
- The [Age Discrimination in Employment Act of 1967](#) (ADEA), as amended by the Older Workers Benefits Protection Act of 1990, applies to employers with 20 or more employees, each working 20 or more weeks in the current or preceding calendar year, employment agencies, labor organizations, U.S.-owned or controlled organizations operating in foreign countries, and legislative and executive branches of the U.S. government. The laws prohibit discrimination against persons age 40 and older.
- The [Pregnancy Discrimination Act of 1978](#) amended Title VII to include pregnancy, childbirth and related conditions (e.g., abortion) in the definition of sex-based discrimination.
- The [Immigration Reform and Control Act of 1986](#) (IRCA) prohibits discrimination on the basis of national origin or citizenship, except for illegal immigrants, by employers having four or more employees.
- Titles I and V of the [Americans with Disabilities Act of 1990](#) (ADA) apply to employers with 15 or more employees, local governments, employment agencies and labor unions. It prohibits discrimination against qualified persons with disabilities, persons with perceived disabilities and persons associated with those having disabilities.
- [Executive Order 11246 of 1965](#) requires federal contractors to include agreements in contracts not to discriminate against an employee on the basis of race, color, sex, religion or national origin and requires certain federal contractors to have affirmative action plans.
- The [Family and Medical Leave Act of 1993](#) (FMLA) applies to employers with 50 or more employees and prohibits discrimination against employees for exercising their FMLA rights.
- The [Uniformed Services Employment and Reemployment Rights Act of 1994](#) (USERRA) applies to all employers, regardless of size, and to all regular employees, regardless of position or full- or part-time status, and prohibits discrimination on the basis of military status and military service obligations. USERRA also provides certain re-employment rights following service.
- Title III of the [Consumer Credit Protection Act \(CCPA\)](#) prohibits an employer from discharging an employee whose earnings have been subject to garnishment for any one debt, regardless of the number of levies made or proceedings brought to collect it.

State and local laws

States and municipalities in the U.S. often cover smaller employers and prohibit employment

discrimination based on many of the same criteria as the federal laws and some criteria that are not covered by federal laws. For example, some states prohibit discrimination on the basis of:

- Marital status.
- Sexual orientation.
- Gender identity or expression and cross-dressing.
- [Hair texture or style](#).
- Legal off-duty conduct, such as smoking.
- Whistle-blowing.
- Taking leave to serve on a jury or to be a witness in a legal proceeding or to vote.

EEO Globally

Globalization has affected the area of EEO in terms of formal applicability of one country's EEO laws to persons working in another country and in terms of expectations about the extent to which equal employment opportunity should be a societal or organizational norm.

In some instances, for example, discrimination is prohibited against the citizens of the native country but explicitly permitted when it comes to immigrants, especially illegal immigrants. There is currently debate in the U.S. as to what rights immigrants—both legal and illegal—should have in terms of EEO. The right to work in a foreign country is subject to that country's immigration laws, which vary widely from country to country.

Theories of Employment Discrimination

Since the enactment of Title VII of the Civil Rights Act, four theories of employment discrimination have emerged under U.S. law: disparate treatment, disparate impact, harassment and retaliation.

Disparate treatment

Disparate treatment discrimination occurs when an employer intentionally takes an employee's protected status into consideration when taking an adverse employment action, such as a termination or layoff decision. An example of intentional discrimination is an employer that learns of an employee's pregnancy and, based at least in part on that knowledge, selects the pregnant employee for layoff rather than a less-qualified employee who is not pregnant.

Disparate impact

Disparate impact discrimination, also known as adverse impact discrimination, occurs when an employer adopts a policy or practice that seems neutral and nondiscriminatory on its surface but has a disproportionately negative effect on members of a protected class. Practices that have been found to have a disparate impact on protected groups include:

Minimum height requirements. These have been found to disproportionately affect women, Hispanics and Asians.

Physical agility tests. These can have a disparate impact on women.

Clean-shaven requirements. These have been found to adversely affect African-American men who are disproportionately affected by a skin condition that is aggravated by shaving.

In a court proceeding, once disparate impact is established, the employer must demonstrate that the challenged requirement is job related for the position in question and consistent with business necessity. If the employee can point to a less discriminatory way to satisfy the business needs, the employer may be obligated to adopt that alternative.

Harassment

Harassment is a form of disparate treatment (i.e., intentional) discrimination. The theory has its roots in sexual harassment cases under Title VII, but courts have applied the same reasoning to harassment on the basis of other protected characteristics, such as race or religion. Sexual harassment can occur in two forms: by the opposite sex or by the same sex.

Quid pro quo harassment. This type of harassment involves unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of employment, or when submission to or rejection of such conduct by an employee is used as the basis for employment decisions, including termination.

Hostile environment harassment. A hostile work environment exists when conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. For a hostile environment to be unlawful, it must be so pervasive and severe that it effectively alters the terms of employment. The environment must be such that a reasonable person would find it hostile or abusive.

Retaliation

Most U.S. laws that prohibit employment discrimination also prohibit retaliation against an employee because the employee has exercised rights under the statute at issue.

For example, Title VII of the Civil Rights Act makes it illegal for an employer to discriminate against an employee because that employee opposed any discriminatory practice; made a charge of discrimination; or testified, assisted or participated in any manner in an investigation, proceeding or hearing. The individual employee who claims to be the victim of discrimination can also claim to be the victim of retaliation for complaining about it.

Lawsuits based on retaliation can be even more difficult for employers to defeat than lawsuits based on direct discrimination. Employers must exercise caution not to attempt, or appear to attempt, to "get even" when conducting disciplinary terminations or layoffs in which the affected employees have participated in protected activities.

Preventing Violations and Managing Risk

Just as violations of EEO laws can be systemic, adherence to EEO requirements is most effective when systemic. Employers can take many actions to prevent EEO violations and charges of discrimination, including:

- Adopting an organizational philosophy that treats employees as individuals entitled to respect and fair treatment, not as commodities.
- Establishing clear written policies and practices that genuinely reflect the employer's EEO values, and then sticking to them and creating thorough documentation of human resource decisions.
- Emphasizing the employer's EEO values, policies and procedures in new-employee onboarding and training.
- Providing ongoing training at all levels about the employer's EEO values, policies and procedures.
- Creating an EEO conflict resolution process that is truly open-door.

- Designating and empowering a responsible individual to address EEO issues: an ethics officer, EEO officer, affirmative action officer, diversity officer, ombudsman or director of human resources.
- Investigating employee complaints thoroughly and consistently.

In addition to the steps described above, employers also manage their EEO risk through:

- Internal dispute resolution programs, such as grievance procedures, mediation and arbitration.
- Employer practices liability insurance.
- Using releases of claims as part of a severance pay plan or ad hoc settlement of EEO claims.
- Ongoing management of EEO issues.

Enforcement

In the United States, EEO laws are enforced both by public agencies and private lawsuits.

Administrative agencies

Federal EEO laws are generally administered by the [U.S. Equal Employment Opportunity Commission \(EEOC\)](#). See [EEOC Coordination of Federal Government Equal Opportunity](#).

Most state governments have one or more civil rights enforcement counterparts to the EEOC, referred to by the EEOC as [Fair Employment Practice Agencies](#). State civil rights agencies usually have concurrent jurisdiction with the EEOC to investigate charges of discrimination under the laws administered by the EEOC, as well as exclusive jurisdiction to administer their own laws.

Charge of discrimination

Employees or other persons who believe their rights to equal employment opportunity have been violated may file a [Charge of Discrimination](#) with the EEOC, with the appropriate state agency or with both. A discrimination charge filed with the EEOC is a sworn statement outlining in very general terms why the charging party believes his or her EEO rights have been violated. The EEOC will assist the charging party in the preparation of this form based on an interview with the charging party. The discrimination charge is often accompanied by a more detailed sworn statement, or affidavit, especially if the charging party has legal counsel.

Agency investigation

The EEOC or state counterpart will notify the employer or other party being charged—the respondent—of the allegations made by the charging party and request that the respondent provide a written response to the allegations and copies of pertinent documents such as policies, performance evaluations and documentation of any disciplinary actions. In some instances, the investigating agency will also request information about workforce demographics.

Responding to EEO Complaints

An employer's obligations in the face of an EEO complaint are to do the following:

- Conduct an investigation that is prompt, fair and thorough.
- Take appropriate remedial measures.

Conciliation efforts

Before or after the respondent submits its response to the charge of discrimination and agency

request for information, the agency typically offers to assist the parties in reaching a negotiated resolution. Sometimes the agency investigator facilitates conciliation; sometimes the agency provides an experienced mediator and facilities for the parties to meet and to attempt to negotiate a resolution satisfactory to both sides.

Agency determination

If the parties do not agree to a negotiated resolution, the agency will proceed to make a determination about whether it believes there is probable cause to believe the respondent violated the charging party's EEO rights. Although the situation under state laws may be different, a determination that discrimination either did or did not occur is nonbinding and is probably not admissible in court proceedings.

The right to sue

The agency charged with administering the particular EEO law must be given the first opportunity to address the issue (i.e., a charging party cannot bypass the agency and immediately file a lawsuit). At the end of the investigation and issuance of its charge determination, the agency will notify the charging party in a right-to-sue letter that he or she may now proceed to file a lawsuit, if desired, and will also state how much time the charging party has to do so, typically 90 days.

Private and agency lawsuits

Under the laws administered by the EEOC, the issuance of the right-to-sue letter starts the clock running for an aggrieved person to file a complaint with an appropriate court of law. This process ordinarily requires hiring an attorney on a contingent-fee basis. In certain circumstances, though, the agency will file a lawsuit on the charging party's behalf, thereby providing the employee with expert government-paid legal counsel.

Factors in the EEOC's decision to file suit on an employee's behalf include:

- The number of employees affected (especially if a class action).
- The type of violation alleged.
- The agency's desire to flesh out unanswered questions under the law or to further the public interest in targeting certain high-priority fields or industries.

Legal Remedies

U.S. EEO laws provide courts and some agencies with a broad array of legal remedies for EEO violations, including:

- **Injunction.** An injunction is a court order requiring the defendant to stop doing something (i.e., a prohibitive injunction) or to start doing something (i.e., a mandatory injunction). A classic example of a prohibitive injunction would be an order to stop using an applicant screening test that is deemed to violate EEO rights.
- **Reinstatement.** A typical example of a mandatory injunction is an order requiring an employer to reinstate a discharged employee to the individual's former position.
- **Back pay.** Back pay is the basic form of damages calculation, awarding the employee the difference between what the employee actually received and what the employee would have received if not for the EEO violation. In a case under the Equal Pay Act, the back pay might be the wage differential between male and female employees. In a case for wrongful discharge under the Americans with Disabilities Act, the back pay might equal

the value of the employee's total compensation package from the date of discharge through the date of the court judgment.

- **Front pay.** In situations in which reinstatement is not practical, a discharged employee may be awarded front pay, which is compensation for a reasonable time into the future reflecting the expected longevity of the employee's employment with the organization.
- **Compensatory damages.** Title VII was amended by the Civil Rights Act to allow for recovery of what it calls "compensatory damages."² The significance of the Civil Rights Act is that it allows for the recovery of damages for emotional distress, job search costs and other forms of damages that did not fall into back pay or front pay. The law also allows for trial by jury in Title VII cases. Compensatory damages are capped at various levels depending on the number of persons the defendant employs.
- **Debarment.** Some U.S. laws provide for debarment, disqualification from eligibility for future federal contracts or cancellation of current federal contracts.
- **Punitive damages.** Also known as exemplary damages, punitive damages are assessed not to compensate the victim but to punish the wrongdoer and to set an example for others.
- **Agency oversight.** Ongoing reporting to and monitoring by the administrative agency.
- **Attorney fees.** Reasonable attorney fees, interest and court costs are available under certain circumstances.

Endnotes

¹Cornell University Law School, Legal Information Institute. 42 U.S.C §1981—equal rights under the law. Retrieved from <http://www.law.cornell.edu/uscode/text/42/1981>.

²U.S. Equal Employment Opportunity Commission. (1991). The Civil Rights Act of 1991. Retrieved from <http://www.eeoc.gov/laws/statutes/cra-1991.cfm>.

California Department of Transportation

DIVISION OF LOCAL ASSISTANCE
P.O. BOX 942874, MS-1 | SACRAMENTO, CA 94274-0001
(916) 653-8620 | FAX (916) 654-2409 TTY 711
www.dot.ca.gov/programs/local-assistance



December 3, 2024

Eastern Sierra Transit Authority
ATTN: Dawn Vidal
P.O. Box 1357
Bishop, CA 93515

Dear Ms. Vidal:

Re: Equal Employment Opportunity (EEO) Plan Acceptance

Thank you for submitting the Eastern Sierra Transit Authority EEO Plan. The CA Department of Transportation, EEO Office, has reviewed your plan and has determined that it meets the requirements set forth in the Federal Transit Administration's (FTA) EEO Circular, 4704.1A, "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," revised April 20, 2017.

Please upload your agency's approved EEO Plan and this letter into the BlackCat system under the "Important Documents" tab.

Your next EEO Plan must be updated and submitted by December 2028.

We thank you for partnering with us to meet the FTA compliance requirements. Please feel free to contact me at (916) 657-5206, should you have any questions or need immediate technical assistance. I can also be reached by e-mail at Sharon.Beasley@dot.ca.gov

Sincerely,

Sharon Beasley

SHARON BEASLEY
Federal Transit Policies and Reporting
Office of Federal Programs
Transit Grants and Contracts

RESOLUTION NO. 2024-04

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EASTERN SIERRA
TRANSIT AUTHORITY APPROVING THE EQUAL EMPLOYMENT
OPPORTUNITY PROGRAM**

WHEREAS, the Eastern Sierra Transit Authority established a program defining the Authority's commitment as an equal opportunity employer and to an active Nondiscrimination Program (the EEO Program); and

WHEREAS, the EEO Policy states that the Policy shall be updated and reaffirmed every four years; and

NOW, THEREFORE, BE IT RESOLVED by the Eastern Sierra Transit Authority Board of Directors that:

1. The ESTA Board approves the Eastern Sierra Transit Authority Equal Employment Opportunity Policy Program (EEO Program) dated December 12, 2024 through December 11, 2028.

PASSED AND ADOPTED this 17th day of October, 2024 by the following vote:

AYES: *Gardner, Griffiths, Orrill, Bubser, Sauser, Salcido*
NOES: *0*
ABSENT: *Freundt, Swartz*
ABSTAIN:



**Bob Gardner - Chairperson
Sierra Transit Authority Board of
Directors**

Attest: Linda Robinson
Secretary of the Board

By: 