

Employee Code of Conduct

I. Declaration of Policy

District officers and employees are public servants and, as such, are expected to be impartial and responsible in fulfilling the public trust placed in them. The public expects and must receive the highest standard of ethical conduct from all those in public service, regardless of personal considerations. District officers and employees are expected to demonstrate the highest standards of personal integrity, honesty, and truthfulness in all their public activities in order to inspire public confidence and trust in the District.

II. Scope

This policy is for use by and applicable to all District officers and employees.

III. Responsibilities of Public Service

District officers and employees are bound to observe, in their official acts, the highest standards of integrity and to discharge faithfully the duties of their offices, recognizing that the lives, safety, health, and welfare of the general public must be their primary concern. Their conduct in both their official and private affairs should be above reproach to assure that their public office is not used for personal gain.

IV. Professional Conduct

District employees shall conduct the District's business in compliance with the law, this Code of Conduct, District policies, and good judgment.

- A. They shall not commit any act which may bring reproach or discredit upon the District.
- B. Speech or behavior that is likely to create an appearance of impropriety is to be avoided.
- C. Employees shall not involve themselves in altercations or any other act of hostility with the public or other employees, nor will they engage in acts which will subject the District to criticism or adversely affect the interests of the District.
- D. It is up to each employee to maintain a professional, safe, and productive environment.
- E. Employees shall treat each other and the public professionally and with courtesy at all times.

- F. At the direction of the General Manager, employees shall provide relevant and necessary information, in a timely manner, to members of the Board of Directors to assist them in the performance of their duties.

V. **Conflict of Interest**

This Code of Conduct incorporates the prohibitions of California law concerning conflicts of interest. Among them is the prohibition against officers and employees being “financially interested in any contract made by them in their official capacity” (Government Code Section 1090, *et seq.*) and the prohibitions and reporting requirements of the Political Reform Act of 1974. This includes the prohibition against officers and employees making, participating in, or using their position to influence governmental decisions in which they have a reason to know they have a financial interest. This Code of Conduct also incorporates the Federal Transit Administration’s (FTA) prohibitions concerning real or apparent conflicts of interest on the part of officers and employees who participate in the selection, award, or administration of contracts supported by federal funds. Such a conflict would arise when any of the following parties has a financial or other interest in an entity selected for award of a contract supported by federal funds: the officer or employee, or any immediate family member, partner, employer, or organization that intends to employ the officer or employee.

Further, this Code of Conduct requires that department managers, as well as officers and employees involved in the award and administration of contracts, review the proposed scope of work of their contracts and bring any potential “organizational conflicts of interest” to the attention of the Contract Management Division. An organizational conflict of interest occurs when any of the following circumstances arise:

- A. The contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to the District due to other activities, relationships, contracts, or circumstances;
- B. The contractor has an unfair competitive advantage through obtaining access to non-public information during the performance of an earlier contract; and/or
- C. During the conduct of an earlier procurement, the contractor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.

Lastly, employees shall not communicate with Board members regarding a procurement before the staff recommendation for award of the contract, agreement, or vendor selection is made public, unless the General Manager has designated the employee to speak with the Board member before the staff recommendation for award is made public. If the procurement involves property development, the Department Manager of Real Estate and Property Development shall serve as the General Manager’s designee in relation to matters with the Board.

VI. Communications During Pendency of Bid or Proposal

District employees shall comply with the terms of Section IX of the District's Contractor Code of Conduct related to communications with outside parties during pendency of a bid or proposal.

VII. Political Activity

The prohibitions of California law pertaining to political activity applicable to public employees, and officers, including the prohibitions of California Government Code Section 3201, *et seq.*, apply to all District employees, and officers. Officers and employees shall not, directly or indirectly, solicit a political contribution from another officer or employee of the District, with knowledge that the person from whom the contribution is solicited is an officer or employee of the District. In addition, officers and employees shall not engage in political activities during working hours, while on District premises, or while in uniform.

California law prohibits the use of public agency resources for campaign activity. Accordingly, the District does not permit the posting of campaign materials on workplace bulletin boards, nor any campaign activities on District property, except for activities related to union elections and the posting of materials related to union elections on bulletin boards designated for union-related materials.

VIII. Solicitation or Acceptance of Gratuities and Favors

This section exists to assure the public that District officers and employees are not influenced in their actions by the receipt of gifts or favors.

Officers and employees shall not solicit or accept gifts or favors of any value from persons or entities with which the District contracts or may reasonably be expected to contract. Gifts or favors include, but are not limited to, free or discounted meals, tickets, transportation, and accommodations.

Notwithstanding the above prohibition, any gifts or favors received by or promised to District officers and employees may trigger the reporting, disclosure, and abstention requirements of this Code (see the Conflict of Interest provisions). In addition, the prohibitions contained in the FTA's third party contracting guidance (FTA Circular 4220.1F) concerning receipt by officers and employees of favors and gratuities from contractors, potential contractors, or parties to sub agreements are incorporated herein and by this reference made part of this Code of Conduct.

IX. Use of Confidential Information

No current or former employee or officer shall use or disclose, other than in the performance of his or her official duties and responsibilities (or as may be required by law), confidential information gained in the course of or by reason of his or her position or employment, nor shall any current or former employee or officer permit such use or disclosure.

X. Use of District Employment and Facilities for Private Gain

District employees and officers shall not use District time for activities other than District business which is within their scope of duties, unless, in the case of employees, such activities have the prior approval of their supervisor or higher supervision in their department or are otherwise authorized under a collective bargaining agreement, or written rule or procedure of the District.

No employee or officer shall engage in or permit the unauthorized use of District property or resources, including but not limited to facilities, materials, equipment, information, intellectual property such as trademarks and copyrighted material, and District staff time. Use of District property or resources for purposes other than District business shall be considered an unauthorized use unless an employee has received prior approval for such use by his or her supervisor or higher supervision in his/her department. Use of District property for non-District business will only be authorized when District management determines it is in the best interest of the District to do so. The prohibition on use of District intellectual property for purposes other than District business includes, but is not limited to, a prohibition on the use of District trademarks or copyrighted BART material as an element in any online identity.

This Code of Conduct incorporates the prohibitions of California law concerning use of public agency resources for campaign activity. The District does not permit the posting of campaign materials on or in District facilities, including but not limited to, workplace bulletin boards.

XI. Nepotism

District Officers and employees shall not participate in the making of a decision to hire, appoint, employ, promote, or terminate a person who is a relative of the officer or employee. Officers and employees shall not take any action that has the potential to affect the employment status at the District of a person who is a relative of the officer or employee, including attempting to persuade another District officer or employee to make a decision or take an action affecting a relative of the officer or employee.

An officer or employee may not work in or be assigned to a position which will result in a situation where: (i) a relative of the officer or employee may supervise or control the work or employment status of the officer or employee; (ii) the officer or employee may supervise or control the work or employment status of a relative; or (iii) the officer, employee or relative may supervise or control the organizational unit in which the other works.

For the purposes of this Code, the term "relative" means the following: husband, wife, domestic partner, father, mother, grandfather, grandmother, son, daughter, stepson, stepdaughter, granddaughter, grandson, brother, sister, uncle, aunt, nephew, niece, father-in-law, mother-in-law, daughter-in-law, sister-in-law, and brother-in-law.

XII. Official District Communications

Officers and employees shall not claim or imply that they are speaking on behalf of the District unless approved to do so by the BART Communications Department. Officers and employees shall not publicly comment on legal matters involving the District unless they have received prior written approval from the BART Office of the General Counsel.

XIII. Affirmative Action/Sexual Harassment

District employees and officers shall not, in the performance of their District responsibilities, engage in unlawful discrimination of any sort, including discrimination against any person on the basis of race, sex, color, national origin, religion, handicap, age, marital status, sexual orientation, or veteran status, and they shall make good faith efforts to support and comply with the District's equal opportunity and affirmative action goals and objectives. The engagement of sexual harassment in conducting District business is prohibited.

XIV. Incompatible Employment, Activities, and Enterprises

District employees shall not engage in employment, activities, or enterprises for compensation which are inconsistent with, incompatible to, or in conflict with their duties as employees. The outside activities inconsistent with, incompatible to, or in conflict with an employee's duties include those which:

- A. Involve the use for private gain or advantage of an employee's District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her District office or employment; or
- B. Involve receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act which the employee, if not performing such an act, would be required or expected to render in the regular course or hours of his or her District employment or as a part of his or her duties as a District employee; or
- C. Involve the performance of an act in other than his or her capacity as a District employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other District employee; or
- D. Involve the time demands as would render performance of his or her duties as a District employee less efficient.

An employee's supervisor or higher level supervisor will notify him or her of disciplinary actions arising from a violation of these procedures, and existing grievance procedures will be utilized to resolve all grievances.

XV. Discussion of Future Employment

Officers and employees shall not make, participate in, or use their position to influence

any government decision relating to any person or entity with whom the officer or employee is negotiating, or has any arrangement concerning, prospective employment. Employees shall immediately report to their supervisor all interviews, discussions, offers, or negotiations concerning future employment where the employee's job duties involve making, participating in, or influencing government decisions related to the prospective employer.

XVI. Penalties for Non-Compliance

In addition to any other penalty as provided by law, employees who violate this Code are subject to discipline, up to and including discharge.

XVII. Compliance with other Policies and Procedures

In addition to this Code, officers and employees may be subject to other District policies, procedures, rules, and guidelines, including but not limited to the Operations Rules & Procedures Manual, Management Procedures, employee handbook, and collective bargaining agreements. Officers and employees are required to comply with all such applicable policies, procedures, rules and guidelines in addition to this Code.

XVIII. Whistleblower Protection

The District is committed to fair treatment of all its employees and recognizes its responsibility under state and federal law to protect from punishment and harassment any person who reports misconduct. Employees should refer to the District's Whistleblower Policy which governs reporting of charges of misconduct.

XIX. Questions and Advice

This Code is not intended to address specific situations which may be unique to individual employees. Employees who have questions or need further guidance should contact their assigned supervisor or manager.