



Casco Bay Island Transit District

Equal Employment Opportunity Program

2024-2027

12.20.2023

CASCO BAY ISLAND TRANSIT DISTRICT EEO PROGRAM

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I. Introduction

Casco Bay Island Transit District (CBITD) is a body corporate and politic created under State Enabling Legislation in 1981 to serve residents and visitors of six Casco Bay islands: Peaks Island, Little Diamond Island, Great Diamond Island and Cliff Island (which are within the City of Portland), and the towns of Long Island and Chebeague Island. The CBITD Board is composed of 12 Directors — 10 elected from the islands, 1 appointed by the City of Portland, and 1 appointed by the Commissioner of the Maine Department of Transportation. Please see Page 3 for the current organization chart.

II. Mission Statement and Commitment

The mission of the CBITD is to provide safe, efficient, and reliable means for the movement of people, goods, and services within the Casco Bay region. CBITD recognizes its responsibility to work as a partner with Federal, state, regional and local governments, and agencies to best meet the transportation needs of the people, communities, and businesses of the Casco Bay region.

Relative to its commitment to equal employment opportunity, CBITD will establish a strong agency policy and assign responsibility and authority to top company officials for the program.

III. Purpose and Intent

Under Federal Transit Laws, FTA is responsible for ensuring that its recipients do not engage in employment discrimination:

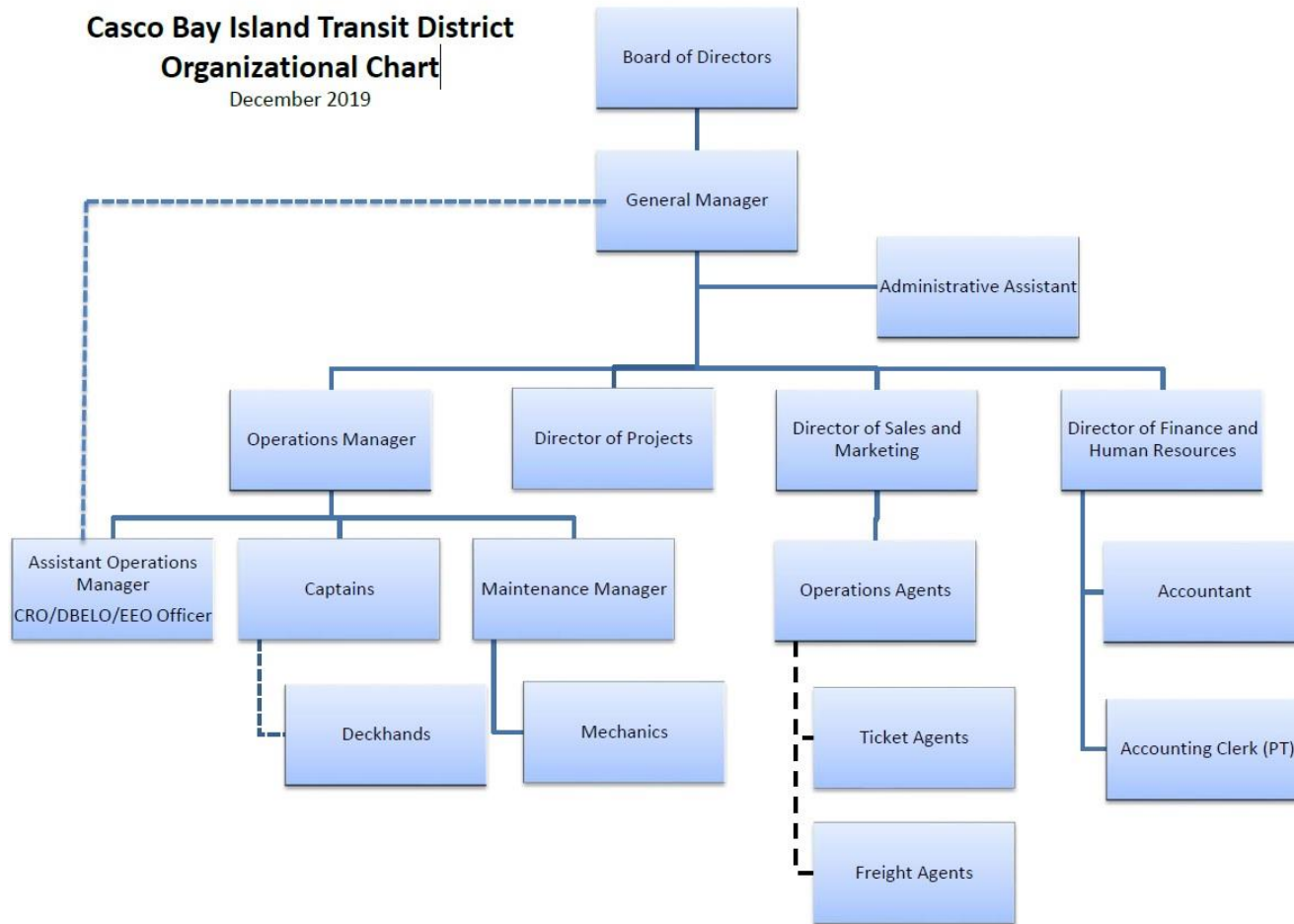
“A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, religion, national origin, sex, disability, or age. (49 U.S.C. § 5332(b))”.

This provision applies to employment opportunities and supplements employment protections found in Title VI of the Civil Rights Act of 1964 (Title VI). The Title VI regulations prohibiting employment discrimination are found at 49 CFR § 21.5(c) – Nondiscrimination in Federally Assisted Programs of the Department of Transportation. It is important to note that while Title VI and 49 CFR Part 21 only prohibit discrimination based on race, color, and national origin, Federal Transit Laws (49 U.S.C. § 5332) includes protections on the basis of religion, sex, disability, and age. In this context, the term ‘sex’ includes pregnancy, childbirth, or related medical conditions; gender identity; and sexual orientation. Retaliation of any kind is strictly prohibited and shall not be tolerated. Reasonable accommodation shall be made for all applicants and employees.

Within the previous federal fiscal year and at maximum employment levels, CBITD employed 50 or more, but less than 99 transit-related employees (including seasonal, full-time, or part-time employees) and received in excess of \$1 million in capital or operating assistance or in excess of

\$250,000 in planning assistance. As such, CBITD is subject to the Federal Transit Laws that require an abbreviated equal employment opportunity program and the affirmative action requirements of United States Department of Transportation Circular 4704.1A, *Equal Employment Opportunity (EEO) Guidelines for Federal Transit Administration Recipients*. The effective timeframe of the District's Equal Employment Opportunity Program is January 1, 2018, to December 31, 2021.

IV. Organization Chart



V. Terms Associated with Equal Employment Opportunity Program¹

Concepts and terms commonly associated with the development and implementation of Equal Employment Opportunity programs include:

Age for the purposes of the Age Discrimination in Employment Act of 1967 means an individual who is 40 years or older.

Agency means a recipient or subrecipient of financial assistance from FTA.

Applicant means a person or entity that submits an application, request, or plan that requires approval by the FTA Administrator or by a recipient as a condition of eligibility for financial assistance from FTA.

Complainant refers to a party that makes a complaint that he or she or any specific individual or class of person has been subjected to discrimination or retaliation prohibited by this Circular and relevant legal authorities.

Compliance refers to a status wherein FTA finds an applicant, recipient, subrecipient, or contractor meets the requirements in this Circular and there is no indication or evidence of employment discrimination.

Concentration means a higher participation of a particular group (e.g., African Americans, Hispanics, or women) in a job category or department as compared with their participation in the relevant labor market.

Contractor refers to any entity or organization that has entered into a contract to perform work or provide services relating to transit service delivery with an applicant, recipient, or subrecipient.

Direct recipient means an entity that receives Federal financial assistance directly from FTA.

Disability with respect to an individual means (a) physical or mental impairment that substantially limits one or more major life activities, (b) a record of such an impairment, or (c) being regarded as having an impairment that is not transitory and minor. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of major bodily functions. (42 U.S.C. §§ 12101 et seq.)

Discrimination means any action or inaction, whether intentional or unintentional, in any program or activity of a recipient, subrecipient, or contractor that results in disparate treatment or perpetuating the effects of prior discrimination based on race, color, religion, national origin, sex, age, genetic information, or disability, or results in disparate impact based on race, color, religion, national origin, sex, age, or disability.

Disparate impact refers to policies or practices that are facially neutral, but that disproportionately affect protected classes, if such policies and practices are not job related and consistent with business necessity, or, for policies or practices that disproportionately affect individuals age 40 or older, if such policies or practices are not based on a reasonable factor other than age. This concept is sometimes referred to as “adverse impact.” See also the Uniform Guidelines on Employee Selection Procedures at [29 CFR Part 1607](#).

Disparate treatment refers to actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color, religion, national origin, sex, age, genetic information, or disability. (29 CFR § 1607.11)

Employee means an individual employed by an employer. People who are not employed by the employer, such as independent contractors, are not employees.

Employer means, in general, a person engaged in an industry affecting commerce that has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

¹ Sources: FTA Circular 4704.1A

Equal Employment Opportunity Program (EEO Program) refers to a written, detailed, results-oriented set of procedures designed to achieve prompt and full utilization of people within a protected class at all levels and in all parts of the recipient's workforce, including compensation.

Equal Employment Opportunity statutes and regulations refer to all statutes and regulations that prohibit employment discrimination and provide employees and job applicants protections and remedies against employment discrimination.

Federal financial assistance includes:

- Grants and loans of Federal funds
- The grant or donation of Federal property and interests in property
- The detail of Federal personnel
- The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient.
- Any Federal agreement, arrangement, or other contract that includes provision of assistance as one of its purposes.

FTA activity means any program of assistance authorized by Federal law that FTA administers.

Four-fifths rule is a disparate impact analysis which measures the effect an employment practice has on a protected class. When the selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or 80 percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of disparate impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of disparate impact. (See the Uniform Guidelines on Employee Selection Procedures at [29 CFR Part 1607](#).)

Good faith efforts are documented actions taken to achieve EEO Program objectives. These actions may include, but are not limited to, establishing and conducting processes to implement specific provisions of this Circular.

Minority persons include:

- American Indians and Alaska Natives, which refers to individuals with origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment
- Asians, which refers to individuals with origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- Blacks or African Americans, which refers to individuals with origins in any of the Black racial groups of Africa.
- Hispanics or Latinos, which includes people of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- Native Hawaiians or Other Pacific Islanders, which refers to people with origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- Multiracial populations, which include individuals with origins in more than one of the Federally designated racial categories.

National origin means the particular nation where a person was born or where the person's parents or ancestors were born, or the common language, culture, ancestry, or other similar social characteristics associated with an ethnic group.

Noncompliance refers to a failure to meet the requirements of Equal Employment Opportunity statutes and regulations or failure to implement an approved EEO Program.

Programs or activities means all the operations of any entity receiving DOT financial assistance, as described in 49 CFR § 21.23(e).

Protected class means any category of person or status protected by any Equal Employment Opportunity statute or regulation.

Reasonable accommodation for an individual with a disability is any change to a job, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits and privileges available to other employees. A reasonable religious accommodation is any adjustment to the work environment that will allow an applicant or employee to practice or observe his or her religious beliefs.

Recipient means any public or private entity that receives Federal financial assistance from FTA, whether directly from FTA or indirectly through a direct recipient. The term does not include any ultimate beneficiary under any such assistance program.

Retaliation means firing, demoting, or otherwise taking adverse action against an applicant or employee because the person filed a charge of discrimination, complained to his or her employer or other covered entity about discrimination, participated in an employment discrimination proceeding (such as an investigation or lawsuit), or otherwise engaged in protected activity.

Secretary refers to the Secretary of the U.S. Department of Transportation or any person to whom he or she has delegated authority in a particular matter.

Sex-based discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex, including pregnancy, childbirth, or related medical conditions. Discrimination against an individual on the basis of gender identity, including transgender status, or because of sexual orientation is also considered discrimination on the basis of sex in violation of Title VII.

Subrecipient means an entity that receives Federal financial assistance from FTA through a direct recipient.

Subcontractor means any entity or organization that has entered into a subcontract relating to transit service delivery with a contractor to provide a service in connection with a program or activity initiated by an applicant, recipient, or subrecipient.

Transit-related employee refers to an employee of an FTA applicant, recipient, subrecipient, or contractor who is involved in any aspect of an agency's public transit operation funded by FTA. For example, a city planner involved in planning bus routes would be counted as part of the recipient's workforce, but a city planner involved only in land use would not be counted.

Underutilization refers to a condition in which women and minorities are not being employed at a rate to be expected given their availability in the relevant labor pool.

Whole-person rule is an analysis that determines underutilization. Underutilization is declared if the number of females/minorities in a job group is as much or more than one person below the number that would cause the job group participation percentage to match exactly the availability percentage.

VI. Policy Statement

CBITD EQUAL EMPLOYMENT OPPORTUNITY

Policy Statement

The Casco Bay Island Transit District (“District”) affirms its commitment to the goals of Equal Employment Opportunity (EEO) employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits and other terms and conditions of employment. The District is committed to the principles of equal employment opportunity in order to achieve a workforce reflective of the diversity of our region and to ensure applicants and employees are treated fairly and free from discrimination.

The District will ensure that employment practices involving recruiting, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits and other terms and conditions of employment are made in a nondiscriminatory manner. These efforts will provide benefits to the District through fuller utilization and development of previously underutilized human resources.

The District commits to undertaking an affirmative action program consistent with Federal laws, court decisions, executive orders and regulations in order to overcome the past effects of discrimination against minorities and women.

The responsibility for implementation of the EEO program is assigned to Michael Bryand, Assistant Operations Manager/Complaint Resolution Officer.

All District managers and supervisors share the responsibility for ensuring compliance is achieved through understanding, communicating, and actively supporting the District’s EEO policy.

Management and supervisory personnel will be evaluated on the success of the EEO program the same way as their performance is evaluated on other District goals.

Job applicants and current employees have the right to file complaints alleging discrimination with the EEO Officer, General Manager, any supervisor or manager and with the federal and/or state civil rights commissions.

District management and supervisors share in the understanding that the successful achievement of EEO goals will provide benefits to the District through fuller utilization and development of previously underutilized human resources.

This policy will be reviewed annually and updated as required.



General Manager
Casco Bay Island Transit District

12/01/2023

Date

VII. Dissemination of the EEO Program (EEOP)

Effective implementation of an EEOP requires identification of specific procedures that will be used to disseminate program elements. CBITD has therefore identified the following steps to ensure effective internal and external communication regarding the EEOP:

Internal Dissemination:

Identified below are methods CBITD uses to communicate its EEOP to employees:

1. Annually, the General Manager or his/her designee ensures the distribution of CBITD's EEO Statement of Policy to all CBITD employees. Associated with this dissemination is a statement from the General Manager that encourages employees to contact the Complaint Resolution Officer (CRO) for assistance with any questions or requests for additional information.
2. New employees receive an employee information packet during orientation. The hiring Manager briefs the new employees on the EEO section that captures CBITD's EEO policy statement, discusses the roles, responsibilities, and expectations of staff in the performance of job functions.
3. CBITD provides various forms of training in human resource management for managerial/supervisory staff. The training session opens with CBITD's employment philosophy, workplace culture, and commitment to ensuring the workforce of CBITD mirrors that of the community it serves.
4. CBITD and the Maine Marine Association will cooperate in efforts to instill the tenets of CBITD's EEOP in the workplace.
5. The EEO policy statement and all relevant Federal EEO regulations are posted in employee break rooms throughout CBITD.

External Dissemination:

CBITD utilizes various means to communicate its EEOP to the public, including, but not limited to:

1. Partnering with local maritime colleges for job opportunities.
2. Providing the public an opportunity to obtain CBITD's EEOP plan upon request.
3. Publicizing CBITD's EEO policy statement through public media sources such as newspapers, website and postings.
4. Initiating and maintaining communication with organizations having special interests in the recruitment of and job accommodations for minorities, women, veterans, and individuals with disabilities.
5. Including CBITD's EEOP policy language on all job postings.

6. Including the provision: "Equal Employment Opportunity Employer" in all recruitment advertising.
7. Including "Equal Employment Opportunity Employer," or "Civil Rights- Title VI, ADA, EEO" in all purchase orders and contracts.

VIII. Program Administration Responsibility

The General Manager has designated Mr. Michael Bryand, Assistant Operations Manager, as CBITD's Complaint Resolution Officer responsible for CBITD's Civil Rights and the primary position responsible for implementing the EEOP. As shown in CBITD's organizational chart, this position has direct access to the General Manager for all Civil Rights responsibilities. While this position has other duties to perform, those duties do not involve developing human resource management policies. Therefore, the Complaint Resolution Officer's responsibilities can be carried out with clear and unobstructed fashion, with no conflicts of interest, in order to safeguard the principles of CBITD's EEOP.

General Manager: Responsibilities include:

- Imparting the leadership and direction that ensures total involvement and commitment to equal employment opportunity programs through CBITD's EEOP.
- Providing appropriate staff resources for the development, implementation, management, monitoring, reporting, and updating CBITD's EEOP
- Ensuring that appropriate policies and procedures, job descriptions, job titles, and reporting relationships are developed and maintained.
- Ensuring that those designated personnel responsible for all EEOP components are given the necessary authority, management support, staffing, and training to successfully implement their assigned responsibilities.
- Issuing CBITD's EEO Statement of Policy to restate CBITD's commitment to EEO and to undertake an Affirmative Action in accordance with the requirements of the Federal Transit Administration Circular 4704.1A.

Assistant Operations Manager: Serving as CBITD's Complaint Resolution Officer and reporting directly to the General Manager for all EEO matters, this position is responsible for:

- Monitoring the implementation of the EEOP
- Developing and recommending an EEO policy and program, including internal and external communication procedures, setting goals and timetables

- Disseminating the EEO policy inside and outside the organization
- Concurring in all hires and promotions for compliance with policy
- Processing and reviewing employment discrimination complaints.
- Collecting and analyzing employment data; identifying problem areas; setting goals
- Ensuring semiannual meetings with managers are scheduled and attended.
- Ensuring that managers and supervisors are aware of the details of the EEOP.
- Reporting to the General Manager at least semiannually on the progress of the program
- Advising the Board of Directors on EEO compliance issues as necessary
- Serving as the liaison with Federal, state and local governments and regulatory agencies, organizations representing minorities, women, and persons with disabilities
- Designing, implementing, and monitoring internal audits and reporting systems
- Assuring that current legal information affecting affirmative action is disseminated to responsible officials.
- Assisting in recruiting minority, handicapped, and women applicants and establishing outreach sources for use by hiring officials.

Manager: Duties as they relate to implementation of the EEO program include:

- Assist in identifying problem areas and establishing CBITD's goals and objectives.
- Participating in periodic audits of all aspects of employment in order to identify and remove barriers obstructing the achievement of specified goals and objectives.

- Holding regular discussions with other managers, supervisors, and employees to ensure CBITD’s policies and procedures are being followed.
- Reviewing the qualifications of all employees to ensure that minorities, persons with disabilities and women are given full opportunities for transfers, promotions, training, salary increases, and other forms of compensation.
- Participating in the review and/or investigation of complaints alleging discrimination
- Participating in periodic audits to ensure that each department is in compliance (e.g., EEO posters are properly displayed on all employee bulletin boards)

Employees:

All District employees are responsible for conducting themselves in a professional, responsible, and non-discriminatory manner. All employees involved in EEO complaint investigations (whether complainants, respondents, or witnesses) must cooperate fully with the EEO Officer during the complaint investigation process. Any employee who violates these policies and procedures will be subject to disciplinary action.

IX. Current Workforce Analysis

CBITD’s organization is comprised of a total of 78 positions. 38 of these positions are seasonal or part-time. The following chart summarizes those positions identified as having underutilization of minorities and females as found within the studied geographical area.

Methodology: In order to identify accurate workforce availability, CBITD matched each internal job title with the corresponding EEO Job Category and cross-referenced each with its own corresponding job code. For example, CBITD has positions known as Operations Agents and Captains/Deckhands. These job titles, according to EEO-1, are identified as *Operatives*. As illustrated below, in order to identify accurate information as to workforce availability, CBITD utilized the EEO-1 Job Title and cross-referenced the information to the Six-Level Standard Occupational Classification (SOC) system.

<u>CBITD Job Title</u>	<u>EEO Job Category</u>	<u>SOC Job Code</u>	<u>SOC Description</u>
Operations Agent	Operatives	53-1021	First line supervisors
Captain/Deckhand	Operatives	53-5021	Captains, Mates, Pilots of Water Vessels

CBITD’s analysis utilizes two sources of statistics relative to workforce availability: EEO Job Categories and EEO Detailed Census Occupation.

X. Assessment of Employment Practices

In order to determine the effectiveness of its EEOP, CBITD ensures the following activities occur annually:

- Evaluating progress made in meeting stated goals within prescribed timeframes.
- Identifying goals that were not achieved.
- Reviewing processes and practices to identify contributing factors or barriers that could be impacting or preventing goal attainment. Areas of focus may involve recruitment, selection, promotion, termination, transfers, layoffs, disciplinary actions, compensation benefits, training, outreach efforts, etc.
- Developing, implementing, and monitoring corrective action plans developed for goals not attained.

XI. Current Employment Practices

CBITD's workforce is relatively small and due to service requirements for the 6-island service area, approximately 50% of CBITD's workforce at maximum employment levels are classified as being seasonal/part time and/or on call. This characteristic also provides CBITD with a low rate of employee turnover in general and minimal turnover due to disciplinary issues.

Recruitment Methods

CBITD's recruiting methods include posting job openings on bulletin boards that are located in common areas such as hallways and break rooms, placing job notices on its website and in local newspapers. Further, CBITD reaches out to local schools, colleges, and various outreach institutions that assist women and minorities with identifying employment opportunities.

Selection Process

- *Internal Applicant* – Represented Position

Generally, employees must satisfactorily complete a probationary work period before being considered eligible for another position.

It is the policy of CBITD to fill job vacancies with existing employees by promotion or transfer whenever possible. Seniority, wages, and benefits are covered by CBITD's two Collective Bargaining Agreements- shore side and marine side. If a job opportunity opens in another department, current employees may be given priority over other applicants, provided they are qualified for the new position.

Employees who meet the requirements of the job will have a formal interview scheduled.

- *Internal/External Applicant* – Non-Represented Position

Applicants who meet the requirements of the job may have a formal interview scheduled. This is not always required. If an employee is a good fit for the position and all agree, CBITD may waive the formal interview process. The hiring manager will evaluate, interview, and recommend applicants for hire. Depending upon the position being recruited, the hiring manager may include the Operations Manager, Sales Director, Finance Director, and/or General Manager. However, the Complaint Resolution Officer will oversee all interviews to ensure the recruiting, selection, and recommendation activities comply with CBITD's EEOP.

The hiring manager will choose the best candidate for the position by evaluating the candidate's responses to interview questions, reviewing work history, and assessing the candidate's skill set with that of the requirements of the position.

XII. Monitoring and Reporting

CBITD monitors its hiring and promotion process to ensure compliance with its EEO policy. Whenever an existing position becomes available or a new position has been budgeted, the Complaint Resolution Officer will inform the hiring managers of CBITD's EEO policy and goals. The Complaint Resolution Officer will review all applications and the applications of those selected for interviews to ensure a nonbiased process.

As documented within this Program, CBITD's workforce is relatively small. As such, the H.R Officer or His or Her designee will maintain EEO records for the organization. These records will include cumulative information as to hiring, training, transfer, promotions for the entire organization, and areas of underutilization. For grant compliance purposes, CBITD will maintain spreadsheets on separations, discipline, promotions, hiring, and recruiting.

The Complaint Resolution Officer will schedule semi-annual meetings with hiring Managers to review the data and discuss progress in implementing the EEO program. The first meeting will occur during the budget preparation cycle (mid-September) to enable CBITD to take necessary corrective action regarding the development and execution of programs or goals and timetables. The second meeting will typically occur one to two months before recruiting for seasonal positions.

The Complaint Resolution Officer also maintains files for complaints and uses a tracking system to ensure each complaint is managed in accordance with established procedures as found under Appendix B of this document.

XIII. Appendix A: EEO Compliant Process and Procedures

EEO COMPLAINT PROCESS

Any applicant or employee who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination based on race, color, creed, religion, national origin, sex, age, or disability may file a written complaint with the Casco Bay Island Transit District (CBITD), State, or Federal agencies.

Many EEO-related matters arise from misunderstandings and failed communication. CBITD encourages matters to be resolved at the lowest possible levels and at the earliest stage possible. Therefore, an employee or applicant may register an informal or formal complaint with CBITD's Complaint Resolution Officer.

Informal complaints can be submitted by phone, email, or in person within 45 days calendar days of the time when the complainant first became aware of the alleged act(s) of discrimination; or, if it is a personnel action, within 45 calendar days of its effective date. The Complaint Resolution Officer may offer an opportunity to participate in the EEO counseling and/or the Alternative Dispute Resolution (ADR) process. Attempting to use informal methods of conflict resolution does not forfeit the employee's right to move forward with a formal written complaint if the matter is not resolved in an informal manner.

Formal complaints must be submitted in writing and filed within 180 calendar days after the date of the alleged discrimination.

CBITD requests that complaints be filed with CBITD for resolution. In those cases where the complainant is dissatisfied with the resolution by CBITD, or the case is not being resolved in a timely manner, the same complaint may be submitted to another organization, such as the Federal Transit Administration, the Maine Human Rights Commission, or the U.S. Equal Employment Opportunity Commission (EEOC).

The complaint shall be filed with:

Michael Bryand, Complaint Resolution Officer
Casco Bay Island Transit District
P. O. Box 4656 DTS
Portland, ME 04112
207-774-7871 x 133
mikeb@cascobaylines.com

XIV. Appendix B: EEO Complaint Resolution Procedures

Upon receipt of a complaint, the Complaint Resolution Officer will log the complaint into the tracking system.

The resolution of EEO discrimination complaints will be conducted in accordance with either of the following procedures:

- Informal Procedure for Resolution
- Formal Procedure for Resolution

A. Informal Procedure for Resolution

Employees and applicants who believe that they have been subjected to discrimination, also known as aggrieved persons, must contact the CBITD Complaint Officer within 45 calendar days of the alleged act of discrimination; within 45 calendar days of the time when the complainant first became aware of the alleged act(s) of discrimination; or, if it is a personnel action, within 45 calendar days of its effective date.

CBITD uses a wide range of problem-solving options that include the use of neutral third parties to resolve disputes. Alternative Dispute Resolution (ADR) provides mediation, facilitation, and other collaborative problem-solving techniques that often produce outcomes that are more efficient and effective than traditional, adversarial methods of dispute resolution.

CBITD uses an impartial and neutral third party that does not have authoritative decision-making power but is present to assist concerned parties in voluntarily reaching a mutually acceptable settlement of the issues in dispute. Mediation is voluntary for the complainant and designed to improve communications and workplace relationships during the pre-complaint and formal EEO complaints process.

CBITD will determine on a case-by-case basis if mediation is appropriate. Although there are few circumstances in which the agency may decline to participate, ADR is not offered in cases where there is no remedy to be gained.

Under ADR, disputing parties have the right to bring a representative if they choose; however, the employee, not their representative, will be expected to speak on his/her own behalf. Confidentiality is essential to the success of all ADR proceedings. Information obtained in ADR proceedings may not be used later by or against the employee.

B. Formal Procedure for Resolution

1. Filing the Complaint

Formal complaints must be presented in writing to the Complaint Resolution Officer. The written complaint must include the complainant's name, division, department, position, basis of the discriminatory complaint, and the

names and positions of individuals involved in the complaint, including witnesses. The Complaint Resolution Officer will complete the investigation within 60 days.

2. Notification to Complainant

Within 10 business days from receipt of the complaint, the Complaint Resolution Officer will send an acknowledgement letter to the complainant and provide information relative to the complaint process. Should additional information be needed from the complainant, the Complaint Resolution Officer will contact the complainant in writing. The complainant will be instructed to submit the information within 10 business days from the receipt of the request. If the requested information is not received within this timeframe, or the complainant has expressed that they do not wish to continue with the complaint, the Complaint Resolution Officer will update the complaint log to show that the complaint has been closed with no further action required and issue a close-out letter as defined under Section B.6.1.

3. Meeting with All Parties

Following receipt of a written complaint, the Complaint Resolution Officer will meet with the employee or applicant to review the discrimination allegation(s) to ensure that the information is accurately stated and understood. During this interview, the basis of the complaint and supporting evidence will be fully communicated. Such an investigation may include interviews with all parties named by the complainant as wholly or partially responsible for the alleged discriminatory acts as well as any witnesses.

4. Determination

If the Complaint Resolution Officer determines that there are no issues of discrimination involving one or more of the protected categories, he or she will inform the employee or applicant, the hiring manager, and the General Manager.

If the Complaint Resolution Officer determines that there has been a violation of this policy, he or she will present a written determination supporting the validity of the complaint to the General Manager with a recommendation for corrective action. Corrective action may include discipline up to termination and/or alternative dispute resolution. If alternative dispute resolution is recommended, it will be conducted within 120 calendar days of the Complaint Resolution Officer’s written determination to the General Manager.

5. Review

The General Manager shall review the record and issue a final determination which may include discipline up to termination.

6. Notification of Findings

Upon receipt of the General Manager’s final determination, the Complaint Resolution Officer will issue one of three letters as outlined below:

1. Closure Letter – Administrative Action: This letter is used to communicate to the complainant that:
 - a. CBITD received a request from the complainant to not pursue the complaint further.
 - b. Complainant did not respond within the 10 business days with requested information.

2. **Closure Letter – No Violation Found:** This letter notifies the complainant that no violation of CBITD’s EEO Program was found after the complaint was reviewed and investigated. The letter states that no additional action will be taken by CBITD and that the complaint has been closed. In addition, the letter provides information regarding the process to follow should the complainant wish to appeal the decision.
3. **Letter of Finding:** This letter is used to notify the complainant that a violation of CBITD’s EEO Program was found after the complaint was reviewed and investigated. This letter summarizes the allegations and the investigation methods used to determine the violation. The letter further explains what action CBITD will take to address the violation.

I. APPEAL AND FILING CONCURRENT COMPLAINTS

If a complainant wishes to appeal any decision made by CBITD, such appeal must be submitted to CBITD no later than 10 days after receipt of either the Closure Letter or Letter of Finding.

A person may also file a complaint directly with the Federal Transit Administration:

FTA Office of Civil Rights
1200 New Jersey Avenue, SE
Washington, DC 20590

II. COMPLAINT TRACKING

The tracking system provides control points for each complaint. The tracking system captures the following information:

- Date complaint was received and by whom.
- Status of complaint (complete/incomplete) and if additional information is needed.
- Details of alleged discrimination action
- Date complaint was assigned for investigation and investigator’s name.
- Finding determination and date
- Date when CBITD notified complainant of finding results.
- Requirements, if any, for follow-up action to be taken by CBITD and by what date
- Confirmation statement that follow-up action was taken.