

Rule 403

Equal Employment Opportunity

Applicability: Unless otherwise noted, Rule 403 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 403.1 **Policies for Equal Employment Opportunities**

Sec. 403.2 **Equal Employment Opportunity Analysis**

Sec. 403.3 **Discrimination Complaints**

Sec. 403.4 **Authority to Override Civil Service Rules to Effectuate a
Discrimination Remedy**

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Applicability: Unless otherwise noted, Rule 403 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 403.1 **Policies for Equal Employment Opportunities**

403.1.1 **Equal Employment Opportunity**

It is the policy of the Civil Service Commission of the City and County of San Francisco that all persons shall have equal opportunity in employment; that selection of employees to positions in the City and County be made on the basis of merit; and that continuing programs be maintained to afford equal employment opportunities at all levels. Vigorous enforcement of the laws against discrimination shall be carried out at every level of each department. All persons shall have equal access to employment within the City and County, limited only by their ability to do the job.

403.1.2 No person shall be appointed, reduced, removed, or in any way favored or discriminated against in employment or opportunity for employment because of race, color, sex, sexual orientation, gender identity, political affiliation, age, religion, creed, national origin, disability, ancestry, marital status, parental status, domestic partner status, medical condition (cancer-related), ethnicity or the conditions Acquired Immune Deficiency Syndrome (AIDS), HIV, and AIDS-related conditions or other non-merit factors or any other category provided by ordinance.

403.1.3 **Language Diversity Policy**

It is the policy of the Civil Service Commission that an employee's use of a language other than English is not only an asset in the provision of public services but, with few exceptions, such as business necessity, is a legally protected right.

403.1.4 **Employment of Persons with AIDS, HIV, and AIDS-related conditions**

Departments, agencies, boards, and commissions of the City and County of San Francisco shall be required to provide reasonable accommodation to qualified employees and applicants who have the conditions known as Acquired Immune Deficiency Syndrome (AIDS), HIV, and AIDS-related conditions.

403.1.5 Prohibition of Sexual Harassment

It is the policy of the Civil Service Commission, consistent with Federal, State and local laws, rules and official policies that sexual harassment of City employees and applicants for employment is prohibited and will not be tolerated.

403.1.6 Prohibition of Unlawful Workplace Harassment

It is the policy of the City and County of San Francisco that each official, employee, and agent acting in official capacity, will treat all persons equally and respectfully, and will refrain from unlawful workplace harassment in accordance with applicable Federal, State and local laws, rules and official policies.

403.1.7 Employment of Persons with Disabilities

In accordance with the Federal, State and local laws, it is the policy of the Civil Service Commission to provide equal access for individuals with disabilities in all areas of employment. No disabled person shall be denied employment or any other term, condition, or privilege of employment based upon disability or the need for a reasonable accommodation, so long as the accommodation does not result in undue hardship on the operations of the department or the City and County of San Francisco.

403.1.8 Prohibition of Retaliation

It shall be a violation of this Rule to discriminate against, retaliate against, or harass any employee or applicant because such employee or applicant has complained of or opposed any discriminatory practice prohibited under this Rule or has made a complaint, testified, supplied evidence, assisted, or participated in any manner in any investigation, proceeding, or hearing under this Rule.

Sec. 403.2 Equal Employment Opportunity Analysis

403.2.1 The Municipal Transportation Agency – Director of Transportation/ Designee shall annually prepare an analysis of its work force.

403.2.2 The Municipal Transportation Agency – Director of Transportation/ Designee shall maintain records of its work force composition by race, sex, ethnicity, and classification (job code). These records shall also reflect new employments, promotions, transfers, and separations; and shall be reported to Federal, State and local agencies as required.

Sec. 403.2 **Equal Employment Opportunity Analysis (cont.)****403.2.2** **(cont.)**

Individual employee names shall remain a confidential part of these records. Non-confidential elements of these records shall be made available for public review upon request.

403.2.3 From the foregoing records, the Municipal Transportation Agency – Director of Transportation/Designee shall prepare and report to the Civil Service Commission every five (5) years with an analysis of the work force to determine whether percentages of sex, race, or ethnic groups in occupational categories are substantially similar to the percentages of those groups available in the work force in the relevant job market who possess the basic job-related qualifications.

403.2.4 For each year thereafter until the next five-year report, the Department of Human Resources staff shall report back to the Civil Service Commission on those City classes identified in the last five-year report as having lower percentages of sex, race or ethnic groups than those occupational categories in the relevant job market.

403.2.5 **Compliance with Reporting Requirements**

Nothing in these Rules shall prohibit compliance with Federal or State reporting requirements.

Sec. 403.3 **Discrimination Complaints****403.3.1** **Purpose**

Any employee or applicant may file a complaint alleging that he or she has been discriminated against as a result of any employment decision made by any agency, department, or commission of the City and County of San Francisco on the basis of any protected category identified in Section 403.1.2 of this Rule. Any employee or applicant may file a complaint alleging that he or she has been retaliated against in violation of this Rule and any such complaint shall be filed and processed in the same manner as other discrimination complaints under this Rule.

403.3.2 **Responsibility**

1) The MTA Director of Transportation shall be responsible for the review and approval of proposed resolutions of employment discrimination complaints within MTA. The decision of the MTA Director of Transportation shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission and reversed.

403.3.2 Responsibility (cont.)

2) The Civil Service Commission shall review and resolve complaints of employment discrimination appealed to it pursuant to procedures established by the Executive Officer in accordance with Rule 404, Section 404.4.5. The determination reached under Commission procedures shall be final and shall be enforced by every employee and officer.

403.3.3 Procedures for Complaints of Discrimination

Pursuant to the provisions of the Charter and this Rule, the MTA Director of Transportation/Designee shall promulgate procedures for the review and resolution of employment discrimination complaints.

403.3.4 Appeal of the MTA Director of Transportation's decision may be filed in writing with the Executive Officer to the Civil Service Commission in accordance with Section 403.3.2 of this Rule.

Sec. 403.4 Authority to Override Civil Service Rules to Effectuate a Discrimination Remedy**403.4.1 Commission Authority**

In its discretion, the Commission may depart from any provision of these Rules in order to effectuate an appropriate remedy for discrimination in an appeal heard by the Commission.

403.4.2 Authority of MTA Director of Transportation

The MTA Director of Transportation may not depart from a provision of these Rules in order to effectuate an appropriate remedy for discrimination when reviewing and resolving an employment discrimination complaint, without specific authorization from the Commission in a particular case, following a request for such authority in that case from the MTA Director of Transportation.