

MEMORANDUM

TO: London Breed, Mayor

THROUGH: Andrea Bruss, Deputy Chief of Staff Office of the Mayor

FROM: Dolores A. Blanding, Human Resources Specialist (Prop F)

DATE: January 30, 2019

SUBJECT: Findings and Recommendations for the San Francisco Municipal Transit Agency (MTA)

BACKGROUND

In a letter to SFMTA employees dated October 5, 2018, you informed the Agency of my appointment to determine that appropriate systems and staff are in place to address employee workplace complaints and concerns. More specifically, I was charged to establish a new system to track discipline and corrective actions; identify units or individuals who draw multiple complaints; set up an internal process for complaints, investigations and interventions; and report back to you and the SFMTA Board.

FINDINGS AND RECOMMENDATIONS

Over the last three months, I met with approximately 55-65 SFMTA employees in various job classifications and levels of responsibility within the Agency, as well as then Board Chairperson Cheryl Brinkman. Many employees spoke about their personal work issue or complaint; some just wanted the opportunity to add their voices to the effort. Additionally, I received input from former SFMTA employees who wanted their stories known and Department of Human Resources staff who work professionally with the SFMTA. I continue to meet with MTA employees and others; therefore, I may submit additional findings and recommendations later.

Based on input from others and some of my personal observations to date, I have identified several problem areas.

Disconnect in Communications between SFMTA Human Resources and DHR-EEO on Active Cases

Some changes have already been implemented. MTA's Human Resources indicated that in October 2018, it started to triage employee complaints filed with the Agency. If the issue is determined not to fall within the scope of EEO policy, the case will remain with Human Resources for follow-up and resolution. Should it fall within the scope of an actual EEO complaint, MTA's Human Resources will forward the case to DHR-EEO for investigation. Employees still maintain the option of filing a complaint directly with DHR. DHR-EEO will notify MTA's Human Resources that it received a complaint and determine if it requires immediate follow-up or action by MTA. DHR-EEO is also amending its closure letter to the complainant to include a contact name within the MTA's Human Resources Office.

Tracking and Consistent Application of Discipline and Corrective Actions Needs Improving

DHR-EEO staff expressed frustration that often following its conclusion of an investigation, the Human Resources Division does not implement its recommendation for disciplinary action. I also heard from MTA managers that Human Resources decide to reduce its recommended disciplinary action without any notice or explanation as to why. DHR-EEO also indicated it is difficult to obtain status updates on EEO cases. Additionally, the perception that some employees have is that managers are not held to the same standards of conduct.

I recommend MTA implement a case management model that I believe is very successful at the Airport Commission. Each month its Human Resources, Health and Safety and EEO managers meet with their supervisor, the Director of Peoples, Performance and Development (PPD), to go over active cases. The cases include discrimination complaints; reasonable accommodation and temporary modified duty requests; all disciplinary action recommendations, up to and including terminations; and long-term absences including sick leave and workers compensation, and fitness for duty. If a case remains active, it appears on the spreadsheet every month for comment regarding status update. There may be discussions among the functions about particular cases and a Deputy City Attorney is present to provide legal advice. The last contact or communication with the employee is documented. The model makes it difficult to lose track of individual cases, requires status updates and any transfer of a case from one function to another is noted and dated. For example, if EEO indicates it has closed the case, there may be discussion if the case comes off the spreadsheet or goes over to Health and Safety or Human Resources for follow-up or further action. The Airport's PPD Director came and presented an overview of the model to MTA Executive staff members and other managers, and allotted time to answer any questions.

Having a process in place that coordinates review of leaves of absence and employee disciplinary actions assures that disciplinary actions and employee separations are applied consistently and uniformly to eliminate bias. It also reinforces the use of counseling and progressive discipline to correct unwanted behavior. If corrective action is not utilized where appropriate, the consequence can be a proliferation of the unwanted behavior in the workplace that may negatively impact employee morale. MTA already has a work group functioning as a Leaves Coordination Committee that I observed and was impressed by their cross-communication and coordination of leaves information. I recommend MTA implement something similar on a broader scale.

Additionally, MTA has taken steps to correct its backlog of EEO case management but more improvements are needed. I recommend MTA separate the EEO compliance function from case management, and the individual responsible for EEO case management report directly to the Executive Director.

Dissatisfaction with the Workplace Culture; Need for Training

A number of MTA employees and managers described bullying and verbally abusive behavior as being tolerated in the workplace. Perhaps some new managers view it as appropriate and replicate bad behavior demonstrated by a superior. It has been described as a culture of silence. You see bad behavior but you do not say anything or get involved because you do not want to be seen as a troublemaker or limit your own career opportunities.

On January 28, 2019, the MTA senior management team was trained by DHR-EEO staff on identifying inappropriate conduct in the workplace. EEO staff presented scenarios similar to real MTA complaints and instructed senior managers on their responsibility to 'say something, do something' when they see, hear or learn of inappropriate conduct by employees, including yelling, gossiping, bullying, clique behavior, and unwelcome comments about a person's appearance. They were also given names for managers to contact in Human Resources pertaining to inquiries on reasonable accommodation, labor/employee relations, and leaves.

On January 29, 2019, DHR delivered its first "Respectful Workplace" training for MTA managers and supervisors. I was informed participants expressed a desire for more training on complaint and grievance processes and EEO. Additionally, the participants indicated they appreciated the opportunity to practice and interact with colleagues and to talk and think about building a culture of respect.

Currently, DHR is identifying MTA supervisors and managers who have not completed the City's 24/7 training. Employees who began the training but did not complete it will be rescheduled. Supervisors and managers that were not scheduled will be scheduled for training. Eventually, I would like to see an online training module provided for all MTA employees so that everyone is informed of conduct that is considered unacceptable and will not be tolerated in the workplace. All employees should be then held accountable for maintaining a safe and

respectful work environment and violation of the policy should be followed with progressive discipline up to, and including, termination.

Insufficient Human Resources Visibility

As MTA employees brought individual issues to my attention, my follow-up question often was, "Did you discuss this with Human Resources?" Very often, the employee replied she did not know she should go to Human Resources. Or I may ask, "Did you discuss this with your HR rep?" and the employee would respond he did not know he had a HR representative. The perception is Human Resources is about hiring and maybe labor contracts management. One employee told me she believes Human Resources is so focused on hiring that it falls short in other areas.

I believe the MTA Human Resources Division needs to increase its visibility throughout the Agency. It needs to remind MTA employees of the services it has to offer and communicate regularly that they are there as a resource. This can be accomplished a number of ways; i.e., sending out a newsletter periodically or hosting brown bag training sessions on various employment-related topics.

Communications from Human Resources need to improve. For example, Human Resources began triage of new complaints in October 2018, but this change has not been communicated to MTA employees through the email system and posting on bulletin boards for employees without email access. Recently, I asked members of a MTA work group if they are aware of the change in how employee concerns and complaints are being processed in Human Resources. The employees indicated that they were not aware of the change and some indicated they were unaware of how complaints had been processed previously.

I strongly recommend having Human Resources office hours at division locations since most of MTA's employees do not work near One South Van Ness Avenue. One employee told me it takes her over an hour to get there using public transportation. MTA is a 24/7 operation and hours at satellite offices should attempt to accommodate as many employees as possible. Employees can schedule appointments with a Labor/Employee Relations analyst at the division location, and just knowing that a HR representative is onsite, an employee or supervisor may think to run an issue or problem by HR for advice or feedback whether s/he is handling a situation correctly. I believe it would help identify some workplace issues earlier, and knowing the HR office is onsite and seeing a representative increases its visibility.

OTHER ISSUES IDENTIFIED

What is the Role of the Human Resources Liaison?

There needs to be a clearer demarcation of the responsibilities of a division's human resource liaison and professional HR personnel. The liaisons are in various job classifications and have

Mayor London Breed

January 30, 2019

Page 5

primary duties, but they also function to expedite HR issues within their division such as hiring. They do not function independently of the division head and its managers. I also recommend training should be provided so the liaisons can properly recognize employee workplace concerns that should be forwarded to professional human resources personnel for review and/or investigation.

Widespread Use of Exempt Appointments

Many MTA employees believe the widespread use of exempt appointments limit opportunities to advance. Some employees believe that there may not have been a selection process or, if there was a selection process, the manager "stacked" the panel to be able to hire whom the manager wants in the position. Some voiced the opinion that the process works to the advantage of the hiring manager because the exempt appointees know they can be terminated at any time without cause, they do whatever the hiring managers want and they are silent about things they know are inappropriate. I do not know the extent this is factual or employee perception. However, if a number of employees believe it to be true and voice the opinion, this is a problem for MTA.

I recommend that MTA explore a mechanism that would allow more transparency around exempt appointments. MTA should also look at its number of exempt appointments, which appear to be high, to determine if some vacancies can be filled from an eligible list through a civil service process.

The Staffing Level of the Labor/Employee Relations Team is Insufficient

Currently, the Labor Relations Team consists of the Labor and Employee Relations Manager, a Principal Personnel Analyst, three Senior Human Resources Analysts, three Human Resources Analysts, and a Management Assistant. I believe the staffing level of the Labor Relations Team is insufficient for an employee workforce of approximately 6200 budgeted positions, particularly, when looking to expand its responsibility; e.g., covering HR office hours at division worksites. I recommend adding additional professional human resource analyst positions to the team and training for all team members. The training should cover EEO investigations and allegations of employee misconduct and whistleblower complaints. Additionally, training should include producing defensible Skelly documentation for recommending disciplinary actions and terminations.

Pattern of Human Resources Unresponsiveness

Employees of other City departments expressed difficulty obtaining needed information from MTA's Human Resources and getting a response to important phone calls and email messages. As a pattern, it is unprofessional and obstructs the City's ability to conduct its business. The Executive Director needs to consider this a work performance issue.

Ombudsperson Role

A question I am asked often, "What happens when you're gone?" I recommend the establishment of an ombudsperson position to assure that recommendations to change the work

culture are implemented, monitored, and modified, as needed. I also recommend that it functions as a separate unit with staff, and that the ombudsperson is independent of MTA senior management and Human Resources. The ombudsperson should report to the SFMTA Director and must have the authority to hold individuals' accountable.

Conclusion

I wish to acknowledge the number of MTA employees who told me they love working for MTA but believe the Agency can be a better place to work. To summarize my recommendations:

- Implement a case management system to review and track outstanding cases pertaining to proposed employee discipline and separations; EEO complaints; long-term leaves of absence; reasonable accommodation, and temporary modified duty requests.
- Training for the MTA senior managers on down the organization on identifying and responding immediately to inappropriate conduct, their responsibilities in the workplace, and everyone's accountability to maintain a safe, hostile-free work environment.
- Improve MTA Human Resources' visibility and communication. Human Resources should implement office hours at Division locations.
- Increase the staffing level of the Labor/Employee Relations Team and provide all member with specialty-specific training.
- Clarify the role and responsibilities of the MTA HR liaisons. The HR liaisons should receive training on recognizing and how to respond to problematic work issues.
- Exempt appointments need to be more transparent. Also, review the number of exempt positions at MTA.
- Have MTA supervisors and managers complete the 24/7 training.
- Separate the EEO compliance. from EEO complaint management.
- All employees must be held responsible and accountable for a safe and productive work environment. Violation of employee standards of conduct should be handled consistently and timely with the appropriate level of disciplinary action up to, and including, termination.

cc: Micki Callahan