



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED  
MAYOR**

*Sent via Electronic Mail*

January 26, 2023

**NOTICE OF CIVIL SERVICE COMMISSION MEETING**

Michael McNair  
[REDACTED]

**SUBJECT: REQUEST FOR A HEARING BY MICHAEL MCNAIR ON THEIR FUTURE EMPLOYMENT RESTRICTION WITH THE CITY AND COUNTY OF SAN FRANCISCO.**

Dear Michael McNair:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **February 6, 2023, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

The agenda will be posted for your review on the Civil Service Commission's website at [www.sf.gov/CivilService](http://www.sf.gov/CivilService) under "Meetings" no later than end of day on Wednesday, February 1, 2023. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal was emailed to you on December 8, 2022, and is again attached to this email.

In the event that you wish to submit any additional documents in support of your appeal, please submit one hardcopy 3-hole punch, double-sided and numbered at the bottom of each page to the CSC Office at 25 Van Ness Ave., Suite 720 and email a PDF version to the Civil Service Commission's email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org) by **5:00 p.m. on Tuesday, January 31, 2023**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

Attendance by you or an authorized representative is recommended. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. Where applicable, the Commission has the authority to uphold, increase, reduce, or modify any restrictions recommended by the department. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

You may contact me at (628) 652-1100 or at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) if you have any questions.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

Cc: Jeffrey Tumlin, Municipal Transportation Agency  
Kimberly Ackerman, Municipal Transportation Agency  
Shana Dines, Municipal Transportation Agency  
David Garcia, Municipal Transportation Agency  
Omozele Biggins, Municipal Transportation Agency  
Greg Valentine, Municipal Transportation Agency  
Milyn Sanchez, Municipal Transportation Agency  
Pete Wilson, TWU Local 250A  
Commission File  
Commissioners' Binder  
Chron

## **NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES**

### **A. Commission Office**

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is [civilservice@sfgov.org](mailto:civilservice@sfgov.org) and the web address is [www.sfgov.org/civilservice/](http://www.sfgov.org/civilservice/). Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

### **B. Policy Requiring Written Reports**

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

### **C. Policy on Written Submissions by Appellants**

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4<sup>th</sup>) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

### **D. Policy on Materials being Considered by the Commission**

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

### **E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement**

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### **G. Procedure for Commission Hearings**

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

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#### **I. Speaking before the Civil Service Commission**

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#### **J. Public Comment and Due Process**

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

#### **K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings**

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

#### **Information on Disability Access**

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email [civilservice@sfgov.org](mailto:civilservice@sfgov.org) to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

#### **Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: [soff@sfgov.org](mailto:soff@sfgov.org), or on the City's website at [www.sfgov.org/bdsupvrs/sunshine](http://www.sfgov.org/bdsupvrs/sunshine).

#### **San Francisco Lobbyist Ordinance**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

LONDON N. BREED  
MAYOR

*Sent via Electronic Mail*

December 21, 2022

**NOTICE OF CIVIL SERVICE COMMISSION ACTION**

Michael McNair



**SUBJECT: REQUEST FOR A HEARING BY MICHAEL MCNAIR ON THEIR  
FUTURE EMPLOYMENT RESTRICTION WITH THE CITY AND  
COUNTY OF SAN FRANCISCO.**

Dear Michael McNair:

At its meeting on **December 19, 2022, at 2:00 p.m.**, the Civil Service Commission had for its consideration the above matter.

The Civil Service Commission postponed this item to the meeting of February 6, 2023, at the request of the appellant.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Cc: Jeffrey Tumlin, Municipal Transportation Agency  
Kimberly Ackerman, Municipal Transportation Agency  
Shana Dines, Municipal Transportation Agency  
David Garcia, Municipal Transportation Agency  
Omozele Biggins, Municipal Transportation Agency  
Greg Valentine, Municipal Transportation Agency  
Milyn Sanchez, Municipal Transportation Agency  
Pete Wilson, TWU Local 250A  
Commission File  
Chron



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED  
MAYOR**

*Sent via Electronic Mail*

December 8, 2022

**NOTICE OF CIVIL SERVICE COMMISSION MEETING**

Michael McNair  
[REDACTED]

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Dear Michael McNair:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **December 19, 2022, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

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In the event that you wish to submit any additional documents in support of your appeal, email them to the Civil Service Commission's email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org) by **5:00 p.m.** on **Tuesday, December 13, 2022**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

Attendance by you or an authorized representative is recommended. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. Where applicable, the Commission has the authority to uphold, increase, reduce, or modify any restrictions recommended by the department. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

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CIVIL SERVICE COMMISSION

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# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

## **CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22MTA)** Applicable to Municipal Transportation Agency Service-Critical Classes

Refer to Civil Service Commission Procedure for Staff - Submission of Written Reports MTA for Instructions on completing and processing this Form

1. Civil Service Commission Register Number: 0149 - 22 - 7
2. For Civil Service Commission Meeting of: 12/19/2022
3. Check One:
  - Ratification Agenda
  - Consent Agenda
  - Regular Agenda
4. Subject: **Request by Michael McNair re: Restriction on Future Employability**
5. Recommendation: Adopt the findings, deny the appeal, and approve the future employability restrictions
6. Report prepared by: Milyn Sanchez Telephone number: 4156464801
7. Notifications: **(Attach a list of the person(s) to be notified in the format described in IV. Commission Report Format -A**
8. Reviewed and approved for Civil Service Commission Agenda:  
Municipal Transportation Agency Director: *Romika Williams*  
For Kimberly Ackerman, Chief People Officer, SFMTA  
Date: November 22, 2022
9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

**Executive Officer  
Civil Service Commission  
25 Van Ness Avenue, Suite 720  
San Francisco, CA 94102**

10. Receipt-stamp this form in the ACSC RECEIPT STAMP<sup>≡</sup> box to the right using the time-stamp in the CSC Office.

CSC RECEIPT STAMP

Attachment



NOTIFICATIONS

Michael McNair



Jeffrey Tumlin -Director of Transportation  
1 South Van Ness Ave. 8<sup>th</sup> Floor  
San Francisco, CA 94103  
Email: [Jeffery.Tumlin@sfmta.com](mailto:Jeffery.Tumlin@sfmta.com)

Kimberly W. Ackerman – Chief People Officer, SFMTA Human Resources  
1 South Van Ness Ave. 6<sup>th</sup> Floor  
San Francisco, CA 94103  
Email: [Kimberly.Ackerman@sfmta.com](mailto:Kimberly.Ackerman@sfmta.com)

Shana Dines - Employee & Labor Relations Manager  
1 South Van Ness Ave. 6<sup>th</sup> Floor  
San Francisco, CA 94103  
Email: [Shana.Dines@sfmta.com](mailto:Shana.Dines@sfmta.com)

David Garcia - Labor Relations Manager  
1 South Van Ness Ave. 6<sup>th</sup> Floor  
San Francisco, CA 94103  
Email: [David.Garcia@sfmta.com](mailto:David.Garcia@sfmta.com)

Omozele Biggins - Training & Instruction  
2640 Geary Blvd,  
San Francisco, CA 94108  
Email: [Omozele.biggins@sfmta.com](mailto:Omozele.biggins@sfmta.com)

Greg Valentine - Assistant Manager – Flynn Division  
1940 Harrison Street  
San Francisco, CA 94103  
Email: [Greg.Valentine@sfmta.com](mailto:Greg.Valentine@sfmta.com)

Milyn Sanchez - Human Resource Analyst  
1 South Van Ness Ave. 6<sup>th</sup> Floor  
San Francisco, CA 94103  
Email: [Milyn.Sanchez@sfmta.com](mailto:Milyn.Sanchez@sfmta.com)

Pete Wilson – TWU Local 250A, Executive Vice President  
1508 Fillmore St. #211  
San Francisco, CA 94115  
Email: [pwilson@twusf.org](mailto:pwilson@twusf.org)



London Breed, Mayor

Gwyneth Borden, Chair  
Amanda Eaken, Vice Chair  
Stephanie Cajina, Director

Steve Heminger, Director  
Fiona Hinze, Director  
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

## MEMORANDUM

**Date:** November 23, 2022

**To:** The Civil Service Commission

**Through:** Kimberly W. Ackerman  
SFMTA Chief People Officer

**From:** David Garcia, Labor Relations Manager

**Subject:** Appeal of Future Employability Restrictions by Michael McNair - Former 9163  
Transit Operator (Register No. 0149-22-7)

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## BACKGROUND

The San Francisco Municipal Transit Agency (Agency) hired Michael McNair (Appellant) a third time as a Transit Operator (Job Code 9163) on March 21, 2022 and released him from probation on September 6, 2022.

On September 6, 2022, the Agency issued a "Notice of Release from Probationary Appointment" to the Appellant. The Appellant's release is "disciplinary" and permanently restricts his future employment. Specifically, the Agency and the City and County of San Francisco should preclude him from positions that require face-to-face contact with the public or customer service.

On September 13, 2022, the Appellant sent a request for appeal to the Civil Service Commission. The Appellant did not include his reasons for appeal in his request. See Appeal to the Civil Service Commission, September 13, 2022 (Form CSC-12). The Appellant appeals the Agency's "Future Employability Recommendation" following his release from the position of Transit Operator (Job Code 9163). In accordance with the Civil Service Rules, the Agency submits this staff report for the Commission's review and consideration.

## ISSUE

Is it reasonable to preclude the Appellant from positions that require customer service or face-to-face contact with the public and to cancel his examination and eligibility status for such positions?

## AUTHORITY AND STANDARDS

[San Francisco City Charter, Article 8A, The Municipal Transportation Agency.](#)

Article 8A, in pertinent part, requires the Agency to hold employees accountable for competent operations, courteous service, and training. The article requires the Agency to support and accommodate the special transportation needs of the elderly and disabled. It extends authority for the Agency to terminate employees based upon the “highest standards of customer service, efficiency, and competency.” See Article 8A, Section 8A.100. **See Attachment A.**

The Agency’s probationary periods are governed by the Civil Service Commission Rule 417 series. A release from probation based on disciplinary reasons requires the Agency to determine the employee’s future employability under the Civil Service Rules’ 417 series.

Sec. 417.1      Requirement for a Probationary Period

**417.1.1** Any person appointed to a permanent civil service position shall serve a probationary period.

**417.1.2** Nothing in these provisions is intended to infringe upon or restrict the authority of an appointing officer in releasing a probationary employee as provided in these Rules.

Sec. 417.2      Definition of Probationary Period

**417.2.1** The probationary period is defined as the final and most important phase of the selection process and is to be used for evaluating the performance of an employee in the position to which appointed; and

**417.2.2** A period of regularly scheduled hours worked, excluding any time off for leave, vacation, other types of time off (not including legal holidays), or overtime.

Sec. 417.9      Release of Employee During the Probationary Period

**417.9.1** An employee may be released by the MTA Director of Transportation/Designee at any time during the probationary period upon written notice to the employee.

Consistent with these Rules and subject to the approval of the Commission, The MTA Director/Designee shall establish and promulgate procedures for administering and processing the release of probationary employees.

**417.9.2** If a probationary employee is released for disciplinary reasons, a determination of the employee’s future employability shall be made as provided in this section.

The decision on future employability reached through the procedures established under these Rules shall be final and shall not be subject to reconsideration.

The Appellant must comply with all the rules contained in the San Francisco Municipal Railway Rules and Instructions Handbook as set forth below: **See Attachment B.**

Rule 2.1.3 – All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules Instruction Handbook.

Rule 2.1.5 – Violation of any rule in this Rules and Instructions Handbook is sufficient cause for disciplinary action up to and including dismissal.

Rule 2.1.7 – Adherence to these rules is essential to safety and safety is the primary importance in the performance of duties.

Rule 2.8.1 – Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.

Rule 2.13.1 - Violation of any of the following rules will be sufficient cause for charges for disciplinary action involving suspension or, if appropriate, dismissal. Inattention to duties; and discourteous treatment of the public or other employees of the SF Muni Railway.

Rule 2.14.1 – Employees must comply with the laws, ordinances, and regulations of the state of California and the city and county of San Francisco.

Rule 2.14.2 – Employees shall be familiar with and obey all such laws, ordinances, and regulations applicable to their responsibilities, including the signing of traffic citations.

Rule 2.21.1 – Operator shall never operate a MUNI vehicle at a speed that is greater than that which is reasonable or prudent, and in no event at a speed that would endanger the safety of persons or property.

Rule 4.15.1 – Cars and coaches shall stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30AM and 8:30PM.

Rule 4.15.2 – Operators must pull into any properly marked vacant and clear bus zone to allow passengers to board or alight.

Rule 4.16.1 - Cars and Coaches will stop at all designated stops where passengers are waiting to board or alight between the hours 6:30AM and 8:30PM. At other hours, in addition to the above, stops will be made for boarding passengers and on verbal request of alighting passengers at the nearside of streets between designated stops.

Rule 4.22.1 - Operators, in or out of service, shall always operate at a safe speed that is consistent with weather, visibility, road or track conditions, traffic, traffic signal indications, and the indications of ATP systems where used.

In accordance with the Memoranda of Understanding by and between the SFMTA and the Transport Workers' Union, Local 250-A (9163), the Agency provides professional customer service training as part of the initial training for all newly employed Operators. See Art. 6, section 6.3, paragraph 40. **See Attachment C.**

## FINDINGS

On March 21, 2022, SFMTA hired the Appellant as a permanent 9163 Transit Operator for a third time. Approximately six months later, the Agency released the Appellant from his probationary position on September 7, 2022. **See Attachment D.** The Agency previously hired the Appellant into this position twice before, both of which resulted in probationary releases for performance concerns.

On September 6, 2022, Flynn Division Manager, Greg Valentine sent a request to release the Appellant from probation to the Agency's Employee and Labor Relations division. **See Attachment E.**

On September 1, 2022, the SFMTA identified the Appellant speeding while operating vehicle #6717. **See Attachment F.**

On August 25, 2022, the SFMTA received a customer service complaint regarding the Appellant for discourteous and rude behavior. The Appellant refused to open the rear doors, causing some passengers to run to the front door so they could board the bus, and others to be left behind. The complainant told the Appellant they would report him for not opening the rear doors for passengers, and the Appellant replied, "Why don't you tell them you didn't pay." **See Attachment G.**

On August 24, 2022, the SFMTA Transportation Management Center (TMC) issued a rule violation after another operator observed the Appellant skipping stops and reported the matter to the TMC. The TMC report states that the Appellant confirmed that he skipped "Mission and Geneva." See TMC Report dated August 24, 2022. **See Attachment H.**

On August 22, 2022, the SFMTA received a customer service complaint regarding the Appellant for discourteous and rude behavior. The complainant said they paid their fare using a \$5.00 bill because they did not have change, and that the Appellant told them, "You should be paying more than that." The complainant said, "excuse me" to which the Appellant replied, "I wasn't talking to

you.” The complainant also said the Appellant refused to lower the steps for an “Older African American woman” as she got off the bus. **See Attachment I.**

On August 22, 2022, the SFMTA received a customer service complaint regarding the Appellant for speeding. The complainant stated Appellant was “driving really fast between stops and gesturing for people to get on [the bus].” **See Attachment J.**

On August 19, 2022, the SFMTA received a customer service complaint regarding the Appellant for discourteous or rude behavior. The complainant stated they boarded the bus through the rear door with their spouse and the Appellant said, “Did y’all pay.” The complainant further stated that the Appellant did not ask other passengers who “were not African American” the same question, implying they felt the Appellant asked them about paying based on their race. **See Attachment K.**

On August 4, 2022, the SFMTA received a customer service complaint regarding the Appellant for passing up intending passengers. The complainant stated there was more than enough room on the bus. **See Attachment L.**

On July 1, 2022, the SFMTA received a customer service complaint regarding the Appellant for refusing to open the door for an elderly woman who “was running for the bus” even though the light was still red and the Appellant could not have proceeded against the red light. **See Attachment M.**

## **DISCUSSION AND ANALYSIS**

The Agency hired the Appellant on March 21, 2022, as a permanent 9163 Transit Operator position. The Agency released him from probation on September 7, 2022, because he received several customer service complaints showing a pattern of discourteous and rude conduct. His misconduct is the primary basis for his disciplinary release, though his manager also identified performance concerns for failing to identify himself correctly on the radio. **See Attachment N.**

Appellant’s conduct is particularly concerning because passengers felt discriminated against based on their race and/or age. Specifically, Appellant was reported to have confronted some passengers about payment while not confronting non-African American passengers for payment and treating elderly passengers poorly by refusing them service and not lowering the steps when they exited the bus. **See Attachments I & M.**

Additionally, Appellant refused service to passengers, including to elderly passengers, by not opening the bus doors as required. Passengers also complained about him speeding while gesturing passengers to board quickly. His excessive speeding violates the service and safety

standards found in the City Charter and the rules contained in the San Francisco Municipal Railway Rules Instruction Handbook.

In sum, the Appellant's conduct toward passengers was unacceptable, rude, and offensive, and not a matter of performance or training. Instead, his behavior amounts to abhorrent misconduct, which directly conflicts with the City Charter provisions regarding the Agency's service standards and safety.

The Appellant's future employability with the Agency or the City and County of San Francisco should include the following restrictions:

1. No job class that deals with face-to-face contact with the public or requires customer service.
2. Cancel any current examination and eligibility status.

### **CONCLUSION**

Based on the information provided to Employee and Labor Relations, we conclude the Appellant lacks customer service skills, and he routinely engaged in misconduct toward passengers. He is unable to meet the minimum requirements for the Transit Operator position. These requirements include picking up passengers, providing the highest customer service standards, and adhering to safety requirements and traffic laws. The Appellant's misconduct and unprofessional behavior prompted his release from probation on September 7, 2022. His future employability restrictions are standard and applied consistently in similar situations.

### **RECOMMENDATION**

Adopt the findings, deny the appeal, and approve the future employability restrictions.

INDEX

Attachment	Description
A	City Charter Article 8A
B	SFMTA Railway Rules and Instructions Handbook
C	TWU Local 250A MOU
D	2022 Notice of Permanent Probationary Appointment
E	Flynn Division Release Memo
F	DriveCam #EXCN04648 speeding
G	Customer Service complaint 654114
H	TMC Violation Report 8/24/2022
I	Customer Service complaint 654773
J	Customer Service complaint 654971
K	Customer Service complaint 653563
L	Customer Service complaint 641760
M	Customer Service complaint 619902
N	TMC Violation Report 6/30/2022
O	Notice of Receipt of Appeal



## San Francisco Charter

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## ARTICLE VIIIA: THE MUNICIPAL TRANSPORTATION AGENCY

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- Sec. 8A.100. Preamble.
- Sec. 8A.101. Municipal Transportation Agency.
- Sec. 8A.102. Governance and Duties.
- Sec. 8A.103. Service Standards and Accountability.
- Sec. 8A.104. Personnel and Merit System.
- Sec. 8A.105. Municipal Transportation Fund.
- Sec. 8A.106. Budget.
- Sec. 8A.107. Municipal Transportation Quality Review.
- Sec. 8A.108. Fare Changes and Route Abandonments.
- Sec. 8A.109. Additional Sources of Revenue.
- Sec. 8A.110. Planning and Zoning.
- Sec. 8A.111. Citizens' Advisory Council.
- Sec. 8A.112. Parking and Traffic.
- Sec. 8A.113. Parking and Traffic; Governance.
- Sec. 8A.114. Cable Cars.
- Sec. 8A.115. Transit-First Policy.

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### **SEC. 8A.100. PREAMBLE.**

(a) An effective, efficient, and safe transportation system is vital for San Francisco to achieve its goals for quality of life, environmental sustainability, public health, social justice, and economic growth. The Municipal Transportation Agency must manage San Francisco's transportation system which includes automobile, freight, transit, bicycle, and pedestrian networks to help the City meet those goals. Through this measure, the voters seek to provide the Municipal Transportation Agency with improved resources and expanded independence and authority in order to create a transportation system that is

among the best in the world.

(b) This article requires the Municipal Transportation Agency to develop clear, meaningful and quantifiable measures of its performance and goals and to regularly publicize those standards. This article also recognizes that the workers of the Municipal Transportation Agency are vital to the success of the Agency and to achieving the improvements voters seek. Therefore, it authorizes incentives for excellence and requires accountability for both managers and employees.

(c) Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient transit service to all neighborhoods;
2. A reduction in breakdowns, delays, over-crowding, preventable accidents;
3. Clean and comfortable transit vehicles and stations, operated by competent, courteous, and well trained employees;
4. Support and accommodation of the special transportation needs of the elderly and the disabled;
5. Protection from crime and inappropriate passenger behavior on the Municipal Railway;
6. Responsive, efficient, and accountable management;
7. Roads that are not gridlocked with congestion;
8. A safe and comprehensive network of bicycle lanes;
9. A safe and inviting environment for pedestrians;
10. Efficient movement of goods and deliveries;
11. A transportation sector that promotes environmental sustainability and does not contribute to global warming; and
12. A well-managed and well-coordinated transportation system that contributes to a livable urban environment.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

(d) The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government. Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

(e) At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to

financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

(f) Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work practices that maximize the Agency's responsiveness to public needs; and 3) protect the Agency's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(g) The effective management of traffic flow and parking are vital to the operation of the Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must manage parking and traffic flow to ensure that transit vehicles move through City streets safely and efficiently.

(h) In addition, the residents of San Francisco require that the Agency: 1) value and protect the safety of pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(i) The voters find that reducing the carbon emissions from San Francisco's transit sector is fundamental to the City's health and wellbeing and shall be among the Agency's policy priorities. Because the Agency has significant influence on San Francisco's transportation sector, which is responsible for fully half of the carbon emissions produced within the City, the voters direct the Agency to develop and implement strategies for substantially reducing those emissions. The voters further affirm the goals of the City's Climate Action Plan.

(j) This Article shall be interpreted and applied in conformance with the above goals.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.**

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the former Department of Parking and Traffic, as well as any other departments, bureaus or operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency under the direction of the Director of Transportation or his or her designee. In order to fully integrate taxi-related functions into the Agency should such a transfer occur, the Agency shall have the same exclusive authority over taxi-related functions and taxi-related fares, fees, charges, budgets, and personnel that it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations.

(c) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and privileges of any civil service

employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(d) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of general application of the City and County, including ordinances prohibiting discrimination of any kind in employment and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time. The Agency shall be solely responsible for the administration and enforcement of such requirements.

(e) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(f) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties.

(Added November 1999; amended by Proposition A, approved 11/6/2007)

***Editor's Note:***

*The Board of Supervisors exercised the power granted under division (b) of this section and abolished the Taxi Commission and transferred its functions, powers, and duties to the Municipal Transportation Agency. See Police Code Art. 16, Sec. 1075.1.*

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## **SEC. 8A.102. GOVERNANCE AND DUTIES.**

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and conformed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive authority over the acquisition, construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Agency; and have exclusive authority over contracting, leasing, and purchasing by the Agency, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15) and that the Agency may not transfer ownership of any of the real property of the City and County without approval from the Board of Directors and the Board of Supervisors;

2. Have exclusive authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;

3. Have exclusive authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements, and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;

4. Notwithstanding any restrictions on contracting authority set forth in the Administrative Code, have exclusive authority to enter into agreements for the distribution of transit fare media and media for the use of parking meters or other individual parking services;

5. Have exclusive authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;

6. Notwithstanding Section 2.109, and except as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway, rates for off-street and on-street parking, and all other, rates, fees, fines, penalties and charges for services provided or functions performed by the Agency;

7. Notwithstanding any provision of the San Francisco Municipal Code (except requirements administered by the Department of Public Works governing excavation, street design and official grade) have exclusive authority to adopt regulations that control the flow and direction of motor vehicle, bicycle and pedestrian traffic, including regulations that limit the use of certain streets or traffic lanes to categories of vehicles and that limit the speed of traffic; and to design, select, locate, install, operate, maintain and remove all official traffic control devices, signs, roadway features and pavement markings that control the flow of traffic with respect to streets and highways within City jurisdiction, provided that:

(i) Notwithstanding the authority established in subsection 7, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the installation or removal of a stop sign or the creation or elimination of a bicycle lane. In any such review, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in this subsection 7 shall modify the authority of ISCOTT, or any successor body, over the temporary use or occupancy of public streets, or the authority of the Board of Supervisors to hear appeals regarding the temporary use or occupancy of public streets.

(iii) Nothing in subsection 7 shall modify the power of the Board of Supervisors to establish

civil offenses, infractions and misdemeanors.

(iv) Notwithstanding the authority established in subsection 7, to the extent state law contemplates that Agency action authorized by subsection 7 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and shall be subject to referendum in accordance with Article 14, and, if a referendum petition contains the requisite number of signatures, the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

8. Have exclusive authority to adopt regulations limiting parking, stopping, standing or loading as provided by state law and to establish parking privileges and locations subject to such privileges for categories of people or vehicles as provided by state law; to establish parking meter zones, to set parking rates, and to select, install, locate and maintain systems and equipment for payment of parking fees, provided that:

(i) Notwithstanding the authority established in subsection 8, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the creation or elimination of any preferential parking zone, the creation or elimination of any parking meter zone, the adoption of any limitation on the time period for which a vehicle may be parked, or reservation of any parking space for persons with a disability that qualifies for parking privileges under state law. In any review of a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in subsection 8 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.

(iii) Notwithstanding the authority established in subsection 8, to the extent state law contemplates that any Agency action authorized by subsection 8 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and, if a referendum petition contains the requisite number of signatures, shall be subject to referendum in accordance with Article 14, and the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

9. Have exclusive authority to establish policies regarding and procure goods and services for the enforcement of regulations limiting parking, stopping, standing or loading and the collection of parking-related revenues and, along with the Police Department, have authority to enforce parking, stopping, standing or loading regulations;

10. Be responsible for chairing the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) or any successor body;

11. Be responsible for cooperating with and assisting the Police Department in the promotion of traffic safety; studying and responding to complaints related to street design, traffic control devices, roadway features and pavement markings; collecting compiling and analyzing traffic data and traffic accident data and planning improvements to improve the safety of the City's roadways; and conducting traffic research and planning;

12. Have exclusive authority to apply for, accept, and expend state, federal, or other public or private grant funds for Agency purposes;

13. To the maximum extent permitted by law, with the concurrence of the Board of

Supervisors, and notwithstanding the requirements and limitations of Sections 9.107, 9.108, and 9.109, have authority without further voter approval to incur debt for Agency purposes and to issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments. Upon recommendation from the Board of Directors, the Board of Supervisors may authorize the Agency to incur on behalf of the City such debt or other obligations provided: 1) the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due; and 2) any debt obligation, if secured, is secured by revenues or assets under the jurisdiction of the Agency.

14. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

15. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's Board of Directors shall:

1. Appoint a Director of Transportation, who shall serve at the pleasure of the Board. The Director of Transportation shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the Board of Directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Board of Directors shall provide an incentive compensation plan consistent with the requirements of Section 8A.104(k) under which a portion of the Director's compensation is based on achievement of service standards adopted by the Board of Directors.

2. Appoint an executive secretary who shall be responsible for administering the affairs of the Board of Directors and who shall serve at the pleasure of the Board.

3. In addition to any training that may be required by City, State or federal law, attend a minimum of four hours of training in each calendar year, provided by the City Attorney and the Controller regarding the legal and financial responsibilities of the Board and the Agency.

(d) The Director of Transportation shall appoint all subordinate personnel of the Agency, including deputy directors. The deputy directors shall serve at the pleasure of the Director of Transportation.

(e) Upon recommendation of the City Attorney and the approval of the Board of Directors, the City Attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.

(f) The Agency's Board of Directors, and its individual members, shall deal with administrative matters solely through the Director of Transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the Director of Transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the Board of Directors' powers of hearing and inquiry as provided in this Section.

(g) Notwithstanding any provision of Chapter 6 or 21 of the Administrative Code establishing any threshold amount for exercise of executive authority to execute contracts, or any successor provision of the San Francisco Municipal Code, the Agency's Board of Directors may adopt threshold amounts under which the Director of Transportation and his or her designees may approve contracts.

(h) Except provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 6.102, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.103. SERVICE STANDARDS AND ACCOUNTABILITY.**

(a) The Municipal Railway shall provide a level of service measured in service hours which is not less than that provided under the schedule of service published in the April 1996 timetable, although not necessarily in that configuration.

(b) By July 1 of each year, the Agency shall adopt mile-stones toward achievement of the goals specified in subsections (c) and (d). Milestones shall be adopted for each mode of transportation of the Municipal Railway, and for the Municipal Railway as a whole, with the goal of full achievement of the standards set in subsection (c).

(c) The standards for the Agency with respect to the services provided by the Municipal Railway shall include the following minimum standards for on-time performance and service delivery:

1. On-time performance: at least 85 percent of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and
2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5 percent of scheduled vehicles must begin service at the scheduled time.

(d) The Board of Directors shall adopt Agency rules setting additional measurable standards for system reliability, system performance, staffing performance, and customer service, including:

1. Passenger, public, and employee safety and security;
2. Coverage of neighborhoods and equitable distribution of service;
3. Level of crowding;
4. Frequency and mitigation of accidents and breakdowns;
5. Improvements in travel time, taking into account adequate recovery and lay-over times for operators;
6. Vehicle cleanliness, including absence of graffiti;



7. Quality and responsiveness of customer service;
8. Employee satisfaction;
9. Effectiveness of the preventive maintenance program; and
10. Frequency and accuracy of communications to the public.

11. The Agency's duties related to parking and traffic functions and any other functions that may be added to the Agency's responsibilities.

(e) The Board of Directors shall adopt Agency rules setting forth the methods by which performance shall be measured with respect to each standard established pursuant to subsections (c) or (d) above in accordance with industry best practices to enhance the Agency's ability to compare its performance to that of other comparable transit systems. The Agency shall regularly publish reports documenting the Agency's performance for each standard. Each performance report shall note any changes in the rules governing the methods by which performance is measured so as to inform interpretation of performance trends over time. Nothing herein shall prohibit the Agency from using additional performance measures.

(f) The Agency shall issue a Climate Action Plan to the Board of Supervisors and the Commission on the Environment by January 1, 2009, and every two years thereafter. The plan shall describe measures taken and progress made toward the goal of reducing greenhouse gas emissions from San Francisco's transportation sector to 80% of 1990 levels by 2012 and shall further address progress toward the following goals:

1. Zero greenhouse gas emissions for Municipal Railway transit vehicles;
2. Lowering energy consumption in Agency facilities and by non-transit vehicles;
3. Maximizing waste reduction in Agency operations;
4. Increasing transit trips and reducing private vehicle trips within the City;
5. Increasing the use of bicycling and walking as alternate forms of transportation; and
6. Improving regional transit connections to reduce private vehicle use by commuters.

No later than January 1, 2010, and no less than every ten years thereafter, the Board of Supervisors shall adopt legislation setting goals for reducing greenhouse gas emissions from San Francisco's transportation sector, and other climate action measures set forth above, for periods after 2012.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.**

(a) The Agency shall establish its own personnel/labor relations office. The Director of Transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the

Director of Transportation and shall establish regular meetings with labor to discuss issues within the scope of representation on terms to be determined through collective bargaining.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Agency performing "service-critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service-critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service-critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service-critical" functions are:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system-related infrastructure;
4. Regularly providing information services to the public or handling complaints; and
5. Supervising or managing employees performing functions enumerated above.

The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service-critical" functions. If an employee organization disagrees with the Agency's designation of a particular job classification as "service-critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service-critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent

to which they are critical to service.

(f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Agency bargaining units for classifications designated by the Agency as "service-critical" and shall establish policies and procedures pursuant to Government Code sections 3507 and 3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(h) The Agency may create new classifications of Agency employees. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104, or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in MTA bargaining units M and EM in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt managerial positions within the Agency shall not exceed 2.75 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the Director of Transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(k) Upon the expiration of labor contracts negotiated by the Department of Human Resources and approved by the Board of Supervisors, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Agency and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(l) Notwithstanding subsection (k), the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee organization representing less than 10 percent of

the Agency's workforce.

(m) In addition to the base pay established in collective bargaining agreements, agreements negotiated by the Agency relating to compensation for Agency managers and employees in classifications designated by the Agency as "service-critical" may provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may also provide for additional incentives based on other standards established by the Board of Directors, including incentives to improve attendance. The Board of Directors may also establish a program under which a component of the compensation paid to the Director of Transportation and 1 exempt managers is based upon the achievement of service standards adopted by the Board of Directors. Notwithstanding any other provision of Article 8A, all such incentive programs shall be at the sole discretion of the Agency Board of Directors, subject to any bargaining obligation imposed by state law.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under Sections A8.404 and A8.409. The mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; the Agency's ability to meet the costs of the decision of the arbitration board without materially reducing service or requiring that the Agency raise fares in a manner inconsistent with Section 8A.108(b); and the Agency's ability to efficiently and effectively tailor work hours and schedules for transit system employees to the public demand for transit service. Notwithstanding the timelines described in Section A8.409-4, to be effective the beginning of the next succeeding fiscal year, all collective bargaining agreements must be submitted to the Board of Directors no later than June 15 for final adoption on or before June 30.

(o) The voters find that for transit system employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency's discretion in establishing and adjusting scheduling, deployment, assignment, staffing, sign ups, and the use and number of part-time transit system personnel based upon service needs is essential to the effective, efficient, and reliable operation of the transit system. In any mediation/arbitration proceeding under Section 8.409-4 with an employee organization representing transit system employees, the employee organization shall have the burden of proving that any restrictions proposed on the Agency's ability to exercise broad discretion with respect to these matters are justified. To meet this burden, the employee organization must prove by clear and convincing evidence that the justification for such restrictions outweighs the public's interest in effective, efficient, and reliable transit service and is consistent with best practices. The mediation/arbitration board shall not treat the provisions of MOUs for transit system employees adopted prior to the effective date of this provision as precedential in establishing the terms of a successor agreement. The mediation/arbitration board's jurisdiction shall be limited to matters within the mandatory scope of bargaining under state law.

(p) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to eliminate unexcused absences. Neither the Agency nor an arbitrator shall have authority to approve or award any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(q) In addition, the voters find that Agency service has been impaired by the existence of side-letters and reliance on "past practices" that have been treated as binding or precedential but have not

been expressly authorized by the Board of Directors or the Director of Transportation, and have not been and are not subject to public scrutiny. Accordingly, for employees whose wages, hours and terms and conditions of employment are set by the Agency, no side-letter or practice within the scope of bargaining may be deemed binding or precedential by the Agency or any arbitrator unless the side-letter or practice has been approved in writing by the Director of Transportation or, where appropriate, by the Board of Directors upon the recommendation of the Director of Transportation and appended to the MOU of the affected employee organization or organizations subject to the procedures set out in this charter. No MOU or arbitration award approved or issued after the November 2010 general election shall provide or require that work rules or past practices remain unchanged during the life of the MOU, unless the specific work rules or past practices are explicitly set forth in the MOU. All side-letters shall expire no later than the expiration date of the MOU.

(f) Before adopting any tentative agreement with an employee organization covering matters within the scope of representation, the Agency shall, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, an analysis of all costs for each year of the term of such agreement, and whether funds are available to cover these costs. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 15 calendar days after the above disclosures have been made.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007; Proposition G, Approved 11/2/2010)

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## **SEC. 8A.105. MUNICIPAL TRANSPORTATION FUND.**

(a) There is hereby established a fund to provide a predictable, stable, and adequate level of funding for the Agency, which shall be called the Municipal Transportation Fund. The fund shall be maintained separate and apart from all other City and County funds. Monies therein shall be appropriated, expended, or used by the Agency solely and exclusively for the operation including, without limitation, capital improvements, management, supervision, maintenance, extension, and day-to-day operation of the Agency, including any division subsequently created or incorporated into the Agency and performing transportation-related functions. Monies in the Fund may not be used for any other purposes than those identified in this Section.

(b) Beginning with the fiscal year 2000-2001 and in each fiscal year thereafter, there is hereby set aside to the Municipal Transportation Fund the following:

1. An amount (the "Base Amount") which shall be no less than the amount of all appropriations from the General Fund, including all supplemental appropriations, for the fiscal year 1998-1999 or the fiscal year 1999-2000, whichever is higher (the "Base Year"), adjusted as provided in subsection (c), below, for (1) the Municipal Railway; and (2) all other City and County commissions, departments and agencies providing services to the Municipal Railway, including the Department of Human Resources and the Purchasing Department, for the provision of those services. The Base Amount for the Department of Parking and Traffic and the Parking Authority shall be established in the same fashion but using fiscal years 2000-2001 and 2001-2002 for the services being incorporated into the Agency.

2. Subject to the limitations and exclusions in Sections 4.113, the revenues of the Municipal Railway, and, upon their incorporation into the Agency, the revenues of the Department of Parking and Traffic, and the Parking Authority; and

3. All other funds received by the City and County from any source, including state and federal

sources, for the support of the Agency .

(c) The Base Amount shall initially be determined by the Controller. Adjustments to the Base Amount shall be made as follows:

1. The Base Amount shall be adjusted for each year after fiscal year 2000-2001 by the Controller based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenues, the Controller shall only include revenues received by the City which are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by adjustment in the next year's estimate.

2. An adjustment shall also be made for any increases in General Fund appropriations to the Agency in subsequent years to provide continuing services not provided in the Base Year, but excluding additional appropriations for one-time expenditures such as capital expenditures or litigation judgments and settlements.

(d) The Treasurer shall set aside and maintain the amounts required to be set aside by this Section, together with any interest earned thereon, in the Municipal Transportation Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward, together with interest thereon, to the next fiscal year for the purposes specified in this Article.

(e) It is the policy of the City and County of San Francisco to use parking-related revenues to support public transit. To that end, the following parking-related revenues deposited in the Transportation Fund shall be used to support the capital and operating expenses arising from the Agency's transit functions:

1. Revenues from parking meters, except those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission and except to the extent that they are required by law to be dedicated to other traffic regulation and control functions;

2. Revenues from off-street parking facilities under the jurisdiction of the Agency (excluding facilities owned by the Parking Authority), including facilities leased to private owners and non-profit corporations, except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department and except those amounts obligated by contract executed before 1993 to pay debt service;

3. Revenues from fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35.

(f) In addition, there is hereby set aside from the general revenues of the City and County and deposited in the Transportation Fund to support the Agency's transit services an amount equivalent to 80 percent of the revenues received from the City's tax on occupation of parking spaces. Additional amounts appropriated as a result of this subsection after July 1, 2008 which were not previously available to support transit service shall be used exclusively to:

1. support implementation of the transit service improvements recommended by the Transit Effectiveness Project or any subsequent system-wide route and service evaluation, with first priority

given to the hiring of full time on-going staff and expansion of training for Agency employees, supervisors and managers; and

2. support the creation of a Labor-Management Implementation and Service Improvement Committee consisting of the Director of Transportation and a designated representative of each union representing Agency employees. This committee shall meet quarterly to discuss implementation of this Section and ongoing system challenges.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.106. BUDGET.**

The Agency shall be subject to the provisions of Article IX of this Charter except:

(a) No later than May 1 of each even-numbered year, after professional review, public hearing and after receiving the recommendations of the Citizens' Advisory Council, the Agency shall submit its proposed budget with annual appropriation detail in a form approved by the Controller for each of the next two fiscal years to the Mayor and the Board of Supervisors for their review and consideration. The Agency shall propose a budget that is balanced without the need for additional funds over the Base Amount, but may include fare increases and decreases, and reductions or abandonment of service. The Mayor shall submit the budget to the Board of Supervisors, without change. Should the Agency request additional general fund support over the Base Amount, it shall submit an augmentation request for those funds in the standard budget process and subject to normal budgetary review and amendment under the general provisions of Article IX.

(b) At the time the budget is adopted, the Agency shall certify that the budget is adequate in all respects to make substantial progress towards meeting the performance standards established pursuant to Section 8A.103 for the fiscal year covered by the budget.

(c) No later than August 1, the Board of Supervisors may allow the Agency's budget to take effect without any action on its part or it may reject but not modify the Agency's budget by a seven-elevenths' vote. Any fare change, route abandonment, or revenue measure proposed in the budget shall be considered accepted unless rejected by a seven-elevenths' vote on the entire budget. Should the Board reject the budget, it shall make additional interim appropriations to the Agency from the Municipal Transportation Fund sufficient to permit the Agency to maintain all operations through the extended interim period until a budget is adopted. Any request for appropriation of General Fund revenues in excess of the Base Amount shall be approved, modified, or rejected under the general provisions of Article IX.

(d) No later than May 1 of each odd-numbered year, the Agency shall submit any budget amendment that may be required to increase appropriations over those approved in the two year budget or as may be required by law, provided that such budget amendment shall establish a detailed plan with appropriation detail only for those anticipated revenues and expenditures exceeding those approved in the two year budget or as otherwise required by law. The Agency may submit to the Board of Supervisors such additional budget amendments or modifications during the term of the budget, including but not limited to amendments reflecting fare changes, route abandonments and revenue measures, as may be required in the discretion of the Agency. The Board of Supervisors may allow any budget amendment to take effect without any action on its part or it may reject but not modify the budget amendment by a seven-elevenths' vote taken within 30 days after its submission to the Board of Supervisors.

(e) Notwithstanding any other provisions of this Charter or requirements of the Annual Salary Ordinance, the Controller may authorize the Agency to move funds within its budget and hire personnel without specific Controller approval so long as the Agency's periodic and verifiable projections of spending by the Agency show the Controller that the Agency's spending will be within the approved budget. However, should the projections show that the Agency spending is likely to exceed its budget, the Controller may impose appropriate controls in his or her discretion to keep the Agency within budget.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.107. MUNICIPAL TRANSPORTATION QUALITY REVIEW.**

(a) The Agency shall biennially contract with a nationally recognized management or transportation consulting firm with offices in the City and County for an independent review of the quality of its operations. The contract shall be competitively bid and approved by the Controller and Board of Supervisors. The review shall contain:

1. A detailed analysis of the extent to which the Agency has met the goals, objectives, and performance standards it is required to adopt under Section 8A.103, and the extent to which the Agency is expected to meet those goals, objectives, and performance standards in the two fiscal years for which the review is submitted, and independent verification of the Agency's reported performance under the performance measures adopted pursuant to Section 4 of this measure; and

2. Such recommendations for improvement in the operation of the Agency as the firm conducting the review deems appropriate.

(b) The results of the review shall be presented promptly to the Citizens' Advisory Council, the Agency, the Board of Supervisors, and the Mayor by the reviewing firm; and the Citizens' Advisory Council, the Agency, and the Board of Supervisors shall each promptly hold at least one public hearing thereon.

(Added November 1999)

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## **SEC. 8A.108. FARE CHANGES AND ROUTE ABANDONMENTS.**

(a) Except as otherwise provided in this Section, any proposed change in fares or route abandonments shall be submitted to the Board of Supervisors as part of the Agency's budget or as a budget amendment under Section 8A.106, and may be rejected at that time by a seven-elevenths vote of the Board on the budget or budget amendment. Any changes in fares or route abandonments proposed by the Agency specifically to implement a program of service changes identified in a system-wide strategic route and service evaluation such as the Transit Effectiveness Project may only be rejected by a single seven-elevenths' vote of the Board of Supervisors on the budget or budget amendment.

(b) The Agency shall base any proposed change in Municipal Railway fares on the following criteria:

1. The Municipal Railway's need for additional funds for operations and capital improvements



and optimal maintenance of assets.

2. The extent to which the increase is necessary to meet the goals, objectives, and performance standards previously established by the Agency pursuant to Section 8A.103.

3. The extent to which the Agency has diligently sought other sources of funding for the operations and capital improvements of the Municipal Railway.

4. The need to keep Municipal Railway fares low to encourage maximum patronage.

5. The need to increase fares gradually over time to keep pace with inflation and avoid large fare increases after extended periods without a fare increase.

(c) For purposes of this Article, a "route abandonment" shall mean the permanent termination of service along a particular line or service corridor where no reasonably comparable substitute service is offered. If the Agency proposes to abandon a route at any time other than as part of the budget process as provided in Section 8A.106, it shall first submit the proposal to the Board of Supervisors. The Board of Supervisors may, after a noticed public hearing, reject the proposed route abandonment by a seven-elevenths vote of its members taken within 30 days after the proposal is submitted by the Agency.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.109. ADDITIONAL SOURCES OF REVENUE.**

(a) To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate to the Agency revenues from sources such as gas taxes, motor vehicle licensing taxes or other available motor vehicle-related revenue sources.

(b) The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County. Unless prohibited by preemptive state law, the Agency may submit any proposal for increased or reallocated funding to support all or a portion of the operations of the Agency, including, without limitation, a tax or special assessment directly to the electorate for approval, or to the owners of property or businesses to be specially assessed, or to any other persons or entities whose approval may be legally required, without the further approval of the Mayor or the Board of Supervisors. The Agency shall be authorized to conduct any necessary studies in connection with considering, developing, or proposing such revenue sources.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.110. PLANNING AND ZONING.**

The planning and zoning provisions of this Charter and the Planning Code, as they may be amended from time to time, shall apply to all real property owned or leased by the Agency but shall not impede the Agency's exclusive authority to set rates and other charges pursuant to Section 8A.102(b)(5).

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.111. CITIZENS' ADVISORY COUNCIL.**

The Agency shall establish a Citizens' Advisory Council of fifteen members which shall consist of one person appointed by each member of the Board of Supervisors and four members appointed by the Mayor. Each member must be a resident of the City and County. No fewer than ten members of the Council must be regular riders of the Municipal Rail-way. At least two members must use the Municipal Railway's paratransit system, and at least three of the members must be senior citizens over the age of 60. The membership of the Council shall be reflective of the diversity and neighborhoods of the City and County. The Council may provide recommendations to the Agency with respect to any matter within the jurisdiction of the Agency and shall be allowed to present reports to the Agency's board of directors. The members of the Council shall be appointed to four-year terms and shall serve at the pleasure of their appointing power. Staggered terms for the initial appointees to the Council shall be determined by lot.

(Added November 1999)

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## **SEC. 8A.112. PARKING AND TRAFFIC**

(a) The Municipal Transportation Agency Board of Directors shall succeed to all powers and duties of the former Parking and Traffic Commission, including the power of members to serve ex officio as members of the Parking Authority Commission under Section 32657 of the Streets and Highways Code. The chair of the Agency's board of directors shall designate annually the directors to serve as members of the Parking Authority Commission. Any person may serve concurrently as a member of the Agency's board of directors and as a member of the Parking Authority Commission. It is the policy of the City and County that the Agency exercise all powers vested by State law in the Parking Authority.

(b) It shall be City policy that the offices of Director of Transportation and Parking Authority Executive Director are not incompatible offices, and the Director of Transportation may serve ex officio as Parking Authority Executive Director, but shall not receive any additional compensation for that service.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.113. PARKING AND TRAFFIC; GOVERNANCE.**

(a) The Agency shall be responsible for management of parking and traffic functions within the City, so as to:

1. Provide priority to transit services in the utilization of streets, particularly during commute hours while maintaining the safety of passengers, pedestrians, cyclists and motorists;
2. Facilitate the design and operation of City streets to enhance alternative forms of transit, such as pedestrian, bicycle, and pooled or group transit (including taxis);
3. Propose and implement street and traffic changes that gives the highest priority to public safety and to impacts on public transit, pedestrians, commercial delivery vehicles, and bicycles;

4. Integrate modern information and traffic-calming techniques to promote safer streets and promote usage of public transit;
5. Develop a safe, interconnected bicycle circulation network; and
6. Ensure that parking policies and facilities contribute to the long term financial health of the Agency.

(b) It shall be City policy that the Agency manage the Parking Authority so that it does not acquire or construct new or expanded parking facilities unless the Agency finds that the costs resulting from such acquisition, construction, or expansion and the operation of such facilities will not reduce the level of funding to the Municipal Railway from parking and garage revenues under Section 16.110 to an amount less than that provided for fiscal year 1999-2000, as adjusted by the Controller for inflation; further provided that it shall be City policy that before approving the acquisition, construction or expansion of a parking garage, the Agency's Board of Directors shall make a finding that the operation of the garage will advance or be consistent with the City's Transit First Policy.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

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## **SEC. 8A.114. CABLE CARS.**

In the conduct of the public transportation system there shall be maintained and operated cable car lines as follows:

1. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.
2. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach; returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.
3. A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section, these lines shall be maintained and operated at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the increasing of the levels of scheduling and service.

(Amended by Proposition A, Approved 11/6/2007)

**Editor's Note:**  
Formerly Sec. 16.100.

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## **SEC. 8A.115. TRANSIT-FIRST POLICY.**

(a) The following principles shall constitute the City and County's transit-first policy and shall be incorporated into the General Plan of the City and County. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.

3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.

4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.

5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.

6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.

7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.

8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.

10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

(b) The City may not require or permit off-street parking spaces for any privately-owned structure or use in excess of the number that City law would have allowed for the structure or use on July 1, 2007 unless the additional spaces are approved by a four-fifths vote of the Board of Supervisors. The Board of Supervisors may reduce the maximum parking required or permitted by this section.

(Amended by Proposition A, Approved 11/6/2007)

*Editor's Note:*

*Formerly Sec. 16.102.*

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**2. GENERAL RULES**

**2.1 Application Of Rules**

**2.1.1** Employees, whose duties are prescribed by these rules, will be provided with a copy of the San Francisco Municipal Railway Rulebook and Instruction Handbook.

**2.1.2** Employees must have a copy of this Rules & Instruction Handbook available for immediate reference.

**2.1.3** All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules and Instruction Handbook.

**2.1.4** When new rules or amended rules are adopted, employees will be furnished a new page(s), which must be inserted in the rulebook. All revisions to this Rules and Instructions Handbook must be promptly complied with.

**2.1.5** Violation of any rule in this Rules and Instructions Handbook is sufficient cause for disciplinary action up to and including dismissal.

**2.1.6** If in doubt as to the exact meaning of any rule, bulletin, instruction, order or notice in effect, apply to the proper authorities for explanation.

**2.1.7** Adherence to these rules is essential to safety and safety is the primary importance in the performance of duties.

**2.1.8** Employees must respond to inspectors or designated management officials' instructions during situations constituting an emergency or a major disruption of service regardless of job classification.

**2.2 Bulletins, Orders, and Notices**

**2.2.1** Written instruction, rules, procedures, bulletins, notices and written and verbal

task for which the property was issued or upon demand by proper authority.

**2.7.7** Employees must not duplicate or cause to be duplicated any Railway keys for any person without their supervisor's approval.

**2.7.8** Operators must not loan or give any Railway keys to any person without their supervisor's approval.

## **2.8 Conduct**

**2.8.1** Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.

**2.8.2** Boisterous, profane or vulgar language is forbidden.

**2.8.3** Avoid disputes with any person, no matter what the provocation.

**2.8.4** When a passenger presents an invalid transfer or abuses a transfer rule, employees are to courteously request the passenger to retain the invalid transfer and pay the fare and then refer the passenger to the Passenger Service Department.

**2.8.5** Politely refer a complainant to the Passenger Service Department if unable to resolve the matter satisfactorily.

**2.8.6** Information concerning the business of the Railway is to be given only to properly authorized representatives of the Railway and peace officers in performance of their duties who present proper credentials.

**2.8.7** Employees are not to, give presents to their superiors and supervisors are not to accept presents from subordinates.

**2.11.6** Employees in uniform, while off duty, must respect their uniform and refrain from the use of intoxicants or show evidence of the use of alcoholic liquor. Frequenting bars or taverns when in uniform is to be avoided.

**2.12 Training**

**2.12.1** Employees must attend training sessions as directed by their supervisors.

**2.13 Discipline**

**2.13.1** Violation of any of the following rules will be sufficient cause for charges for disciplinary action involving suspension or, if appropriate, dismissal.

- A. Inattention to duties;
- B. Incompetence;
- C. Substance Abuse;
- D. Immoral Conduct;
- E. Insubordination;
- F. Discourteous treatment of the public or other employees of the SF MUNI Railway;
- G. Fighting;
- H. Mishandling fares;
- I. Dishonesty;
- J. Abandonment of vehicle;
- K. Willful abuse of railway property.

**2.14 Traffic Laws**

**2.14.1** Employees must comply with the laws, ordinances, and regulations of the state of California and the city and county of San Francisco.

**2.14.2** Employees shall be familiar with and obey all such laws, ordinances, and regulations applicable to their responsibilities, including the signing of traffic citations.



**2.11.6** Employees in uniform, while off duty, must respect their uniform and refrain from the use of intoxicants or show evidence of the use of alcoholic liquor. Frequenting bars or taverns when in uniform is to be avoided.

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- H. Parking Control Officers (when in full uniform);
- I. Guide, Signal, and Service animals;
- J. Municipal Railway Employees;
- K. Municipal Railway Dependents;
- L. Sisters of Charity;
- M. Special Service.

**2.20 Arrests**

**2.20.1** An employee shall not request the arrest of any person, unless authorized by an Inspector or proper authority, except when employee is robbed, assaulted or in immediate personal danger.

**2.20.2** If an arrest is made, immediately report it to OCC. An Accident Report must be made during, or immediately following completion of tour of duty, giving name and star number of arresting officer, and names and addresses of witnesses and person(s) arrested.

**2.21 Safety**

**2.21.1** Operator shall never operate a MUNI vehicle at a speed that is greater than that which is reasonable or prudent, and in no event at a speed that would endanger the safety of persons or property.

**2.21.2** While vehicles are in motion, operators are to devote his/her attention to pedestrians, tracks, traffic, and signals.

**2.21.3** Operators, when approaching intersections where right or left turns are to be made, must operate slowly and ensure the right or left signal is activated one hundred feet before commencing the turn and remain in continuous operation while completing the turn.

## **4.12 Operations Control Center Notification**

**4.12.1** Operators are to immediately notify OCC when any difficulty occurs which might disrupt the operators' schedule or cause a delay.

**4.12.2** Operators must notify OCC immediately of a broken down vehicle failing to move.

## **4.13 Reports**

**4.13.1** Operators are to make out Miscellaneous Report forms to report all unusual occurrences, except accidents.

## **4.14 Required Information**

**4.14.1** An operator operating more than one car must know the number of cars being operated, the car number, their designation, and their location in the train.

## **4.15 Stopping For Passengers**

**4.15.1** Cars and coaches shall stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 A.M. and 8:30 P.M.

**4.15.2** Operators must pull into any properly marked vacant and clear bus zone to allow passengers to board or alight.

**4.15.3** If unable to comply with Rule 4.15.1, then the operator is to stop at a safe boarding location and must wait for any intending passengers.

**4.15.4** Coaches must be stopped in box zones so that:

- A. Front and rear doors are within one foot of the curb, if not;
- B. Both the front and rear doors are beyond three feet of the curb when other vehicles are parked at curb legally or illegally.

**4.15.5** At multiple coach loading stops, operators whose coaches are in the third or greater position must stop in the first or second position before proceeding. When a disabled person is observed in any position of a multiple coach zone all operators are to stop, open doors, and announce the line and destination of the vehicle. No pass up of a disabled person is permitted.

**4.16 Designated Stops**

**4.16.1** Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 A.M. and 8:30 P.M. At other hours, in addition to the above, stops will be made for boarding passengers and on verbal request of alighting passengers at the nearside of streets between designated stops.

**4.16.2** Whenever a request is made in advance for a particular stop, operator and/or conductor must acknowledge the request of the passenger and announce same.

**4.16.3** Between 8:30 P.M. and 6:30 A.M., stops will be made for boarding passengers and on verbal requests from alighting passengers at the nearside of streets between designated stops, except on Market Street or Ocean Avenue, Judah, West Portal, and Lincoln Lane (North side only).

**4.17 Passing Up Passengers**

**4.17.1** Operators on Cable Cars, coaches, and electric cars, in revenue service, or on pull-out and pull-in trips, are to stop for intending passengers, when there is room enough to board, except as follows:

A. When a number of coaches or electric cars having the same destination are bunched due to an unusual delay. In such instances, the operator on the first coach or electric car may pass up every

- 4.20.4 Operators must lower the kneeler on kneeler-equipped vehicles at any time requested and at stops where the kneelers use would aid passengers in boarding.
- 4.20.5 Operators must make the wheelchair lift available to anyone requesting it, wheelchair user or standing passenger, on vehicles so equipped.
- 4.20.6 Operator must aid passengers in wheelchairs with lifting seats and the securement systems upon the request of the passenger.
- 4.20.7 Operator must ask passengers to yield seats in the securement area for wheelchair users.
- 4.20.8 Operators must request passengers to yield the forward seats to persons with disabilities and seniors.
- 4.20.9 Operators must allow persons traveling with respiratory or portable oxygen supply to board and ride any revenue vehicle.
- 4.21 **Unauthorized Stops**
- 4.21.1 Operator must not stop for passengers or employees at any station, platform, or bus stop location(s) unless authorized by OCC.
- 4.22 **Speed**
- 4.22.1 Operators, in or out of service, shall at all times operate at a safe speed that is consistent with weather, visibility, road or track conditions, traffic, traffic signal indications, and the indications of ATP system where used.
- 4.22.2 Operators must be prepared to stop short of any person, object, or obstruction within range of their vision.
- 4.22.3 Operators must have their train under control at all times and must not exceed the prescribed speed in either surface or subway operations. Operators must be aware of

elevations, curves, weather, visibility, track conditions, etc. and adjust their speed accordingly.

- 4.22.4** Speed must be regulated on the surface so that the operator's range of vision is greater than the stopping distance of the train.
- 4.22.5** If two speed limits are in effect because of a speed restriction placed on a train or vehicle, the operator must comply with the lower speed.
- 4.22.6** In manual operation, the speed must be regulated in the subway and tunnel so that the operator's range of vision is greater than the stopping distance of the train.
- 4.22.7** Electric cars and trolley coaches are to be operated at a reduced speed when entering or proceeding through intersections, curves, or when entering/leaving or operating within any MUNI yard or garage.
- 4.22.8** The maximum speed shall be restricted over track with opposing traffic when train movements are not governed by block signals, CAB signals, timetable, train order, current of traffic, or manual block system. In the absence of such control systems train operators shall operate with caution at an on sight speed.
- 4.22.9** A train must not exceed 5 mph in an intersection curve until the rear-most axle of the trailing truck has cleared the curve, until the number mark painted between the rails indicating the number of cars being operated, passes under the operator's cab.
- 4.22.10** Trains passing over entry or exit loops must not exceed 10 mph until the entire train has passed over them.
- 4.22.11** Employees must be alert to any rollbacks and must immediately apply brakes.

## ATTACHMENT C

- f. issue any other directive intended to carry out its managerial responsibility to operate the transit system safely, efficiently and economically.
36. All matters pertaining to the management of operations, including the type and kind of service to be rendered to the public and the equipment used, the maintenance of discipline and efficiency, the hiring, promotion and transfer of employees, and their discharge or discipline for proper cause, are the prerogatives of the SFMTA, subject to such limitations as are set forth elsewhere in this Agreement, in the Meyers-Milias-Brown Act, San Francisco Charter, Civil Service Rules, the San Francisco Administrative Code and other applicable laws and regulations.

### **ARTICLE 6. CONDITION OF EMPLOYMENT**

#### **Section 6.1 Condition Of Employment**

37. As a condition of continued employment, Operators shall maintain all regulatory requirements, including all licenses or medical certifications required to operate the mode(s) of transportation to which they are assigned.
38. Each Operator remains solely responsible for maintaining all regulatory requirements, including all licenses, medical certifications, and training. Operators who are on extended leaves of absence must have all required licenses and certifications current and in effect when returning to active duty. In addition, as a condition of returning to full duty, Operators returning from leave must submit to a medical examination by SFMTA's designated provider. Each Operator shall submit a validated copy of any required certificate(s), license(s) or other documentation to the SFMTA Safety and Training Division. Failure to meet the requirements of this section will result in termination without the need for progressive discipline.

#### **Section 6.2 Drivers License Reimbursement**

39. Operators in service for one year or more shall be reimbursed for the renewal fees of Class B California Drivers License and Verification of Transit Training ("VTT") renewal required by this Article 6.

#### **Section 6.3 Customer Service Training**

40. SFMTA shall provide professional customer service training as part of the initial training for all newly employed Operators. A minimum of 8 hours annually of professional customer service training shall be provided to all Operators. SFMTA will meet with the Union no later than September 30, 2019 to discuss the content of the customer service training.



London Breed, Mayor

Gwyneth Borden, Chair  
Amanda Eaken, Vice Chair  
Steve Heminger, Director

Fiona Hinze, Director  
Sharon Lai, Director  
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

Via U.S. Certified and First-Class Mail

Via E-Mail [REDACTED]

September 6, 2022

Michael McNair  
[REDACTED]

Re: Notice of Release from Permanent Probationary Appointment  
Transit Operator (9163)

Dear Michael McNair,

In accordance with San Francisco Municipal Transportation Agency (SFMTA), Civil Service Commission (CSC) Rule 417.9 - Release of Employee during the Probationary Period, you are hereby notified that you are being released from your probationary appointment as a 9163 Transit Operator effective September 7, 2022.

You are hereby being advised that the SFMTA is recommending to the Civil Service Commission that your future employment be restricted as follows:

- No job class that deals with face to face contact w/ public or customer service

Please make arrangements with Greg Valentine, Flynn Asst. Division Manager, to return all company property including and not limited to City and County of San Francisco Disaster Service Worker badge, SFMTA employee badge, keys, uniform, and etc. All items must be returned immediately to Greg Valentine at the Flynn Division located at 1940 Harrison Street, San Francisco, CA 94103.

If you have any questions regarding this matter, please contact Milyn Sanchez at [milyn.sanchez@sfmta.com](mailto:milyn.sanchez@sfmta.com)

Sincerely,

*Shana Dines*

Shana Dines  
Employee & Labor Relations Manager





Attachments: Separation Report, Notice & Report on Probationary Status and Notice of Release from Probationary Appointment

cc: Leda Rozier/Ammee Alvior, Transit  
Greg Valentine, Asst. Division Manager, Flynn  
Christine Cayabyab, Employee & Labor Relations  
Mike Keohane, Payroll Operations, Payroll  
Valerie Coleman, Brian Lim, Employee Services  
Rie Butler, Client Services, DHR  
Personnel File



### SEPARATION REPORT

INSTRUCTIONS: Please complete the Separation Report to:

- 1. Document internal departmental processes. Please do not send to DHR.
- 2. Document that the employee separation is not a complete separation from City service, Separation Report must be completed by the sending department and submitted to the receiving department to be attached to the AP ESR.
- 3. To process a layoff. Please send to the DHR layoff coordinator.
- 4. To administer a settlement agreement involving the separation of the employee-submit documentation to your Client Services Representative. (Reference TER\_RZA)\*

Date of Request: 9/6/2022

Department Contact: Milyn Sanchez Email: milyn.sanchez@sfmta.com Phone: (415) 646-4801

#### SECTION I: PERSONAL AND JOB INFORMATION

Name (Last, First, M.I.): McNair, Michael Employee I.D.: 173421

Job Code: 9163 Job Title: Transit Operator

Position Number: 01039447 Hourly Rate: \$29.6125 Step: 1 Effective Date: 9/7/2022

Empl. Class: PCS Work Schedule: Full-Time

Is the employee serving a probationary period at the time of the separation?  Yes  No

Is this a complete separation from City and County Service?  Yes  No

If no, continuing in:  
Department Code: (Select One) Status: \_\_\_\_\_ Job Code: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Is employee granted leave pursuant to Civil Service Rule 120.31?  Yes  No

If no, is employee a transfer?  No  Yes, type of Transfer: (Select One)

#### SECTION II: SEPARATION INFORMATION

Resignation

Satisfactory Services (TER\_RSS)

Unsatisfactory Services (TER\_RUS)  
(Form DHR 1-13 must be on file)

By the appointee: I hereby freely and voluntarily resign from the above position. I request approval of this resignation as of the effective date with the full understanding that once approved, I may acquire another position in this class only as provided in the rules of the Civil Service Commission (see employee copy and CSC Rules 114&119).

\_\_\_\_\_  
Employee Signature Date

Lay-off

Involuntary Leave (PCS\_LIL)  Elective Involuntary Leave (PCS\_EIL)

Involuntary Lay-off (PCS\_LIO)  Voluntary Lay-off (PCS\_LVO)

(PV & EX Only): (Select One)

Reason for lay-off: (Select One)

Employee acknowledges receipt of the DHR information leaflet.

\_\_\_\_\_  
Employee Signature Date

# SEPARATION REPORT

## DEPARTMENT USE ONLY

Termination

Settlement Agreement (TER\_RZA)  
\*(Separation Report and Settlement Agreement must be forwarded to Client Services Rep.)

Release from appointment:

Release from probation:

Dismissal:

Terminated for cause (TFC) (TPV,NCS, & Exempts only)

Automatic Resignation (ARS)

Never Reported to Work (DSH)

Death of an employee (DEA)

Other (Specify): \_\_\_\_\_

Retirement:

## DEPARTMENT CERTIFICATION

*The Appointing Officer/Authorized Designee named below hereby certifies that the information provided on this Separation Report is accurate, complete, and in compliance with applicable CCSF rules and policies.*

*Shana Dines*

415.646.4801

Appointing Officer/Authorized Designee Signature

Telephone

Name/Title: Shana Dines

Department Number: 68 Department Name: MTA

Personnel File Forwarded?  Yes  No

Forwarded to:

Department: \_\_\_\_\_ Contact: \_\_\_\_\_

---

## DHR USE ONLY

Action Pending?  Yes  No

Analyst Name

Telephone

SR Ref Number: \_\_\_\_\_ Holdover Canvass: \_\_\_\_\_

Reference Number used for layoff actions: \_\_\_\_\_



**NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT**

Mailing Date 9/6/2022

Name Michael McNair Department/Division MTA  
 Address [REDACTED] Type of Appointment: PCS  
 City [REDACTED]  Entrance Probationary  
 State [REDACTED] Zip [REDACTED]  Promotive Probationary

This notice is to inform you that effective 9/7/2022, you are released from your appointment in Class 9163,  
 Title Transit Operator

The following checked item applies (check only one):

- A. Non-Disciplinary Release: The decision of the Appointing Officer is final. There are no restrictions on your future employment with the City and County of San Francisco.
- B. Disciplinary Release (see documents attached): Should you elect to appeal the recommendation(s), follow the procedures. You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to modify employment restrictions or impose additional restrictions on your future employability. However, the Commission CANNOT reverse the department's decision to release you from your employment.
- C. Automatic Reversion (Non-Disciplinary Release): You have automatic rights of reversion to the previous class from which promoted; if necessary, displacements in the former class shall occur. You will revert to the class from which promoted: Class \_\_\_\_\_, Title \_\_\_\_\_

You may request a hearing for review of any restrictions on your future employability (when box B above is checked) with the Civil Service Commission within twenty (20) calendar days of the mailing date of this notice or from the date of release, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness, Suite 720, San Francisco, CA 94102 by \_\_\_\_\_. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing, the Human Resources Director will take final administrative action and the restriction(s) recommended, if any, will be in effect.

The items checked below are the recommendations made by your department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/>	No restrictions on future employability.	<input checked="" type="checkbox"/>	Cancel any current examination and eligibility status.
<input type="checkbox"/>	No future employment with this department.	<input type="checkbox"/>	No future employment with the City and County of San Francisco.
<input type="checkbox"/>	Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of _____ year(s) experience outside the City and County service.		
<input checked="" type="checkbox"/>	Other (specify): no job class that deals with face to face contact w/ public or customer service		

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6

MUST BE COMPLETED BY DEPARTMENT:  
 Rank: 61 List# 3rdsup  
 SSN: 173421  
 Employee Organization TWU Local 250A  
 METHOD OF SERVICE:  
 Certified Mail  Hand Delivered \_\_\_\_\_  
 Certified Mail # \_\_\_\_\_  
 Attachment(s)  
 DHR 1-14 (8/00)

Shana Dines  
 SIGNATURE OF APPOINTING OFFICER  
Shana Dines  
 NAME  
Employee & Labor Relations Manager  
 TITLE

### **ADDITIONAL INFORMATION FOLLOWING RELEASE**

1. This document serves as the official notice of your release to you, the Civil Service Commission, and the Department of Human Resources. You will be removed from the eligible list from which you were appointed.
2. If this is a Disciplinary Release (box B is checked) and you request a hearing within the time limits, you are entitled to:
  - a) Representation by an attorney or authorized representative of the employee's own choice.
  - b) Notification of date, time and place of hearing at a reasonable time in advance.
  - c) Inspection by the employee's attorney or authorized representative of those records and materials in the Civil Service Commission which relate to the separation.
3. The decision of the Civil Service Commission is final and not subject to reconsideration.
4. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

## **NOTICE OF RELEASE FROM PROBATIONARY APPOINTMENT**

Instructions for completing Form DHR 1-14

Refer to Civil Service Commission Rule 117 - Probationary Period

Use this form for a Probationary Employee when:

Probation began on or after March 16, 1998 and performance does not meet the standards for passing probation in the class.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, and Type of Appointment. Type of Appointment: Entrance Probationary if the employee was certified from an entrance (E) list or certified from a combined promotive and entrance (CPE) list but did not advance to the position from another permanent appointment. Promotive Probationary if the employee was certified from a promotive (P) or combined promotive and entrance (CPE) list and advanced to the position from another permanent appointment.

In the first sentence enter the effective date of the release. This date must be before COB (close of business) on the last day of probation. Use the form Report of Probationary Status (DHR 6-37) to calculate end date of probation. Enter the Class Number and Title of the employee's position.

Check one box, A, B or C, to indicate the type of release:

A - Non-Disciplinary Release for entrance probationary employee.

B - Disciplinary Release for either entrance or promotive probationary employee in cases when release is for misconduct.

C - Automatic Reversion (Non-Disciplinary) for promotive probationary employee who does not meet standards of the current class. For box C, also enter the Class Number and Title of previous appointment.

If you have checked box B - Disciplinary Release:

- 1) Indicate the date by which the appeal must be filed in the space provided. Count twenty (20) calendar days from the mailing date of the notice or the effective date of release, whichever is later. When counting the days, count the day after the mailing date as the first day of the twenty (20) calendar days.
- 2) Indicate the recommended restrictions on future employability by checking the appropriate boxes. If you check the box requiring outside work experience, you must also type in the number of years. Attach a copy of all separation-related letters and supporting documentation.

Complete the information on the bottom section of the form: Rank, List#, SSN, and Employee Organization. Check the Method of Service used.

The Appointing Officer must sign the form. Type in the name and title of the Appointing Officer.

Make two copies of the form. Send a copy to DHR, Certification Unit; and retain a copy in the Employee Personnel File. Send the original to the employee.



## NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS

Michael McNair  
 Employee Name  
 [Redacted]  
 Street Address  
 [Redacted]  
 City State Zip

9/6/2022  
 Mailing Date  
 MTA  
 Department/Division  
 PCS  
 Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 9163 Title Transit Operator, effective 9/7/2022, for the reasons outlined in the attached document(s).

The items checked below are the restrictions made by the department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/> No Restrictions on Employment <input checked="" type="checkbox"/> Permanent Restriction <input type="checkbox"/> Conditional Restriction	<input checked="" type="checkbox"/> Citywide <input type="checkbox"/> Department(s): _____ <input type="checkbox"/> DOT/SAPP <input type="checkbox"/> Job Code(s): _____ <input checked="" type="checkbox"/> Cancel Current Examination & Eligibility Status
---	--

*Conditional restrictions may be lifted by proving you have satisfactorily met the following requirements:*

Requirement Type	Description:	Level of Measurement:	Measurement Value:
CER: Certification			
EXP: Work Experience			
LIC: Licensure			
SAP: Substance Abuse Program			
Other:			

*In addition to the noted conditional restrictions, you are also restricted from specific attributes of a job class and/or department until you satisfactorily prove you meet the requirements to lift the restriction(s) as noted below:*

Future Employment Restrictions	Description:	Level of Measurement:	Measurement Value:
001: Vehicle/Heavy Machinery			
002: Vulnerable Populations			
<input checked="" type="checkbox"/> 003: Face to Face Contact w/Public	no job class that deals with		
004: Contact w/Animals	customer service		
005: Signing/Approving City Docs			
006: Financial Instruments			
007: Confidential/Privileged Information			
008: IT Infrastructure			
009: Means of Entry to Living Spaces			
010: Pharmaceutical/Drug Inventory			
011: CDC Defined Toxins			
012: Weapons/Explosives			
013: City Property Valued > \$100			

You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 21 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 9/27/2022. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (Note: Future Employment Restriction(s) effective immediately).

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6. (SEE BELOW)

List #: <u>3rdSUP</u>	Rank #: <u>61</u>	<input type="checkbox"/> Pending	<input checked="" type="checkbox"/> Final	Status of Action
DSW: <u>173421</u>		<i>Shana Dines</i>		
Emp Organization: <u>twu local 250a</u>		SIGNATURE		
METHOD OF SERVICE:		Shana Dines		
<input type="checkbox"/> Hand Delivered		NAME		
<input checked="" type="checkbox"/> Certified Mail		Employee & Labor Relations Manager		
		TITLE		

**INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION**

1. This document serves as an official notice of future employment restrictions imposed with the Notice of Automatic Resignation from Employment to the former employee or with a Separation Action that is subject to the provisions of a collective bargaining agreement, to the Civil Service Commission, and the Department of Human Resources.
2. A separated employee may request a hearing before the Civil Service Commission only for review of any restrictions on their future employability with the City and County of San Francisco.
3. Such appeals or requests for hearing must be in writing and received from the employee or the employee's representative by the date specified on this notice, or within twenty (20) calendar days from the mailing date of this notice, or the effective date of the separation, whichever is later. The request must be submitted to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.
4. An employee who requests a hearing within the time limits is entitled to:
  - a. Representation by an attorney or authorized representative of the employee's own choice.
  - b. Notification of date, time, and place of hearing at a reasonable time in advance.
  - c. Inspection by the employee's attorney or authorized representative of those records and materials on file with the Civil Service Commission which relate to the restrictions on future employability.
5. Any interested party may request that the hearing be continued or postponed.
6. The decision of the Civil Service Commission is final and not subject to reconsideration.
7. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.



## DEPARTMENT INSTRUCTIONS FOR COMPLETING FORM DHR 1-13E

- Refer to related provisions of appropriate collective bargaining agreements
- Refer to CSC Rule 122, Article VI: Absence From Duty Without Leave (Misc)
- Refer to CSC Rule 222, Article IV: Absence From Duty Without Leave (UPPD)
- Refer to CSC Rule 322, Article VI: Absence From Duty Without Leave (UPFD)

### Use this form when:

The appointing officer or Human Resources Director has taken action of automatic resignation on an employee on the basis of abandonment of position, regardless of employment status; and/or the separation action is subject to the provisions of the collective bargaining agreement.

Complete the information on the top section of the form: Name, Address, City, State, Zip, Mailing Date, Department/Division, Type of Appointment, Type of Separation.

In the first paragraph of the notice, enter the Class Number, Title and effective date of the separation.

If there are no restrictions imposed with the separation, the box “*no restrictions on future employability*,” must be checked to indicate this action, and attach applicable documents, e.g., a settlement agreement.

Indicate the restrictions on future employability by checking the appropriate boxes. If the restrictions are conditional, you must complete the section on the requirements needed to lift the restrictions, including the level of measurement (entry, journey, etc.) and values (length of time in months, years, etc.) of the requirements.

If Future Employment Restrictions are included, complete that section including details on the requirements needed to lift the restrictions. Attach a copy of all separation-related letters and supporting documentation. Documentation must provide justification and the rationale for the imposed restrictions.

The separated employee may request a hearing for review of any restrictions on future employability. Indicate the date by which the appeal must be filed in the space provided. Consistent with the separation action, count twenty (20), or thirty (30), calendar days from the mailing date of the notice or the effective date of release, whichever is applicable. When counting the days, count the day after the mailing date as the first day.

Complete the information on the bottom section of the form: Rank, List#, DSW#, and Employee Organization. Check the method of service used and tracking # if applicable.

Indicate status of action:

- Select “Pending” if Notice of Future Employment Restrictions is subject to the provisions of a collective bargaining agreement
- Select “Final” if the status is not subject to the provisions of a collective bargaining agreement, or to update a previously reported “Pending” action.

Type in the name and title of the appointing officer. The appointing officer must sign the form.

Send the *original* Notice of Future Employment Restrictions along with the *original* Notice of Automatic Resignation from Employment (DHR 1-48a) to the employee. Make two sets of copies of the notices; send one set of *copy* to DHR - Client Services along with the *original* Separation Report (DHR Form 1-67); and retain the other set of *copy* in the Official Employee Personnel Folder.

Reminder: Imposed restrictions on future employability are effective immediately, and must be reported to DHR – Client Services concurrent with the departmental notice to separate the employee. This will enable timely and appropriate updates to DHR systems and other dependent programs, such as exams, adoptions of eligible lists, citywide recruitments, and certifications/referrals.



**City and County of San Francisco  
NOTICE AND REPORT OF PROBATIONARY STATUS**

**CAP#:**

6537

**Part I: Notice of Probationary Status at Time of Appointment**  
*Complete at time of appointment*

Original: Personnel File  
Copy: Employee

<u>McNair</u> Last Name	<u>Michael</u> First Name	<u>68 / SFMTA</u> Department/Division
<u>9163</u> Job Code	<u>Transit Operator</u> Title	<u>TWU 250A</u> Employee Organization/Union

Congratulations on your Permanent Civil Service (PCS) appointment!

You are now serving your probationary period, which is used to evaluate your performance on the job. It is the final and most important phase of the selection process. During your probationary period, you may be released by your appointing officer at any time in accordance with Civil Service Rule 117 – Probationary Period. The duration of your probationary period is governed by provisions in the Memorandum of Understanding (MOU) or ordinance covering your job code. Extensions of your probationary period are governed by Civil Service Rules and provisions in the MOU or ordinance covering your job code. Please refer to your human resources representative if you have any questions.

Duration of the Probationary Period (per MOU or Ordinance): 6 months  
Did the employee received credit for prior service?: No

If yes, provide dates: from \_\_\_\_\_ to \_\_\_\_\_ Total time credited: \_\_\_\_\_ days

Provide justification for credit (cite Civil Service Rule Section or MOU Section):

Probationary Period Begin Date: 3/21/2022

Expected Probationary Period End Date: 9/20/2022 COB  
*(Probation begins on the employee's start work date in PCS status, not the certification date)*

**Voluntary Resumption of the Probationary Period. To be used only as specifically authorized by Civil Service Rule 117.8.**

Employee has previously completed probation for this job code in this department, and is voluntarily resuming a probation period not to exceed six (6) months.

Resumed Probationary Period Begin Date:

Expected Resumed Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

**Employee**

Michael McNair  
Printed Name

Michael McNair 3/11/22

Signature and Date

**Department Head/Designee**

Valerie Coleman  
Printed Name

3/11/2022

Valerie Coleman

Signature and Date



**City and County of San Francisco  
NOTICE AND REPORT OF PROBATIONARY STATUS**

**CAP#:**

**Part II: Report of Probationary Period Adjustment**

*Complete prior to the Expected Probationary Period End Date identified above*

Original: Personnel File  
Copy: Employee

No adjustment of the probationary period is required.

Employee's probationary period is adjusted as follows:

<b>Adjustment Worksheet</b>		
If the probationary period was adjusted, please check the reason(s), provide the number of hours, and total the number of working days of extension.		
Check	Reason for Extension	Number of Hours
<input type="checkbox"/>	Vacation & Floating Holidays	
<input type="checkbox"/>	Administrative Leave	
<input type="checkbox"/>	Compensatory Time Used	
<input type="checkbox"/>	Authorized Leave	
<input type="checkbox"/>	Unauthorized Absence	
<input type="checkbox"/>	Disciplinary Suspension	
<input type="checkbox"/>	Sick Leave with or without pay	
<input type="checkbox"/>	Other (Provide detailed explanation):	
Total Hours:		
Total Days of Adjustment:		

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Please sign below acknowledging that you understand this notice and have received a copy of it.

**Employee**

**Michael McNair**

Printed Name

**Department Head/Designee**

Printed Name

Signature and Date

Signature and Date



**City and County of San Francisco  
NOTICE AND REPORT OF PROBATIONARY STATUS**

**Part III: Report of Extension of Probationary Period**

*Complete prior to the Expected or Adjusted Probationary End Date*

Original: Personnel File  
Copies: Employee, Union, DHR-Client Services

- Employee's probation has been extended. Please check all boxes that apply to the extension:
  - Change in employee's supervisor during probationary period and current supervisor has not had adequate time to evaluate the employee's work
  - Inability to fully assess employee's performance based on change in duties (e.g., added requirement for employee to obtain training in new protocol) during the original probationary period or because some duties are cyclical in nature
  - Performance-related deficiencies that can be corrected with additional training within reasonable timeline
  - More time is needed to obtain required license(s) and or certificate(s) (may be extended for no more than twelve months pursuant to Civil Service Rule 117.4). Describe the license(s) and/ or certificate(s):
  - Other special circumstances. Describe in detail:

Probationary Period Begin Date:

Adjusted Probationary Period End Date:

Probationary extensions require additional signatures. Please refer to the applicable MOU for guidance.

**Employee**

**Department Head /  
Designee**

**Union**

Printed Name

Printed Name

Printed Name

Signature and Date

Signature and Date

Signature and Date



City and County of San Francisco  
NOTICE AND REPORT OF PROBATIONARY STATUS

**Part IV: Report of Release from Probationary Appointment**

*Complete prior to the Expected or Adjusted Probationary Period End Date*

Original: Personnel File  
Copies: Employee, DHR-Client Services

- Employee is released during the probationary period effective close-of-business: 9/6/2022  
*Department must complete a Notice of Release from Probationary Appointment (DHR Form 1-14)*

**Department Head/Designee**

Print

*Shana Dines*

Signature and Date

**Part V: Report of Successful Completion of Probationary Period**

*Complete on the Expected or Adjusted Probationary Period End Date*

Original: Personnel File  
Copies: Employee

- Employee successfully completed probation. Completion Date:

**Department Head/Designee**

Printed Name

Signature and Date

**INSTRUCTIONS FOR COMPLETING DHR FORM 6-37:**  
**“NOTICE AND REPORT OF PROBATIONARY STATUS”**

**GENERAL INSTRUCTIONS:**

- Refer to the Civil Service Commission Rules regarding Probationary Periods. The Rules govern:
  - under what circumstances a probationary period is required,
  - definition of time counted in the probationary period,
  - extension of probationary period to obtain a license or certificate,
  - credit for probationary period,
  - successive probationary appointment (extensions), and voluntary resumption of the probationary period
- The Memorandum of Understanding (MOU) or Ordinance specifies the duration of the probationary period
- The probationary period begins on the employee’s start work date in Permanent Civil Service (PCS) status
- Care should be taken in calculating the end date of the probationary period. For example, if the probationary period is one year for an employee whose start work date is January 1<sup>st</sup>, that employee’s probationary period ends close-of-business on December 31<sup>st</sup> (not January 1<sup>st</sup> of the next year).

**PART I: Notice of Probationary Status at Time of Appointment**

- Complete Part I of this form as part of the initial appointment processing of a new PCS employee. Both the employee and department representative should sign and date Part I of the form.
- Voluntary Resumption of Probationary Period. To be used only as authorized by the Civil Service Rules when an employee who has completed probation for the same job code and department, voluntarily agrees to resume a probationary period not to exceed six (6) months.
- It is recommended that you save an electronic copy of the form. Print the completed form and provide a copy to the employee and place the original in the employee’s personnel file.

**PART II: Report of Probationary Adjustment**

- Prior to the anticipated completion of the probationary period, complete Part II of the form to identify adjustments to the probationary end date required by the Civil Service Rules. Remember that legal holidays do not extend the probationary period—please see Civil Service Rule 117.2.1.
- Both the employee and department representative should sign and date Part II of the form.
- It is recommended that you update the original electronic copy of the form used to complete Part I. Save an electronic copy of the updated form. Print the completed form and provide a copy to the employee and place the original in the employee’s personnel file.

**PART III: Report of Extension of Probationary Period**

In the event that a probationary extension is necessary and appropriate, complete Part III of the form. Indicate the reason/justification for the extension. Please note that probationary extensions may require additional signatures. Refer to applicable MOUs for guidance. **IMPORTANT: DHR approval/signature is NOT required.**

- It is recommended that you update the original electronic form used to complete both Part I and Part II. Save an electronic copy of the form.
- Copies of the signed form should be distributed and the original placed in the employee’s personnel file.
- Send an electronic (PDF) copy of the signed form to your DHR client service representative.

#### **PART IV: Report of Release from Probationary Appointment**

In the event that an employee is released during the probationary period, complete Part IV of the form. The department must also complete a Notice of Release from Probationary Appointment (DHR Form 1-14) by which the department may designate the release as disciplinary and recommend restrictions on future employment.

- It is recommended that you update the original electronic form used to complete Parts I, II and III. Save an electronic copy of the form. Print the form and provide a copy to the employee and place the original in the employee's personnel file.
- Refer to on-line separation process to complete the probationary release of the employee.
- Send an electronic (PDF) copy of the signed form, the DHR Form 1-14, and any supporting documents to your DHR client service representative.

#### **PART V: Report of Successful Completion of Probationary Period**

Upon successful completion of the probationary period, complete Part V of the form.

- It is recommended that you update the original electronic form used to complete Parts I, II and III. Save an electronic copy of the form. Print the form and provide a copy to the employee and place the original in the employee's personnel file.

**For questions about how to complete newly revised DHR Form 6-37 or whether the circumstances merit an extension of a probationary period, please consult with your Client Services Representative.**



## FLYNN DIVISION

1948 Harrison Street  
San Francisco, CA 94107

London Breed, Mayor

Gwyneth Borden, Chair  
Amanda Eaken, Vice Chair  
Stephanie Cajina, Director

Steve Heminger, Director  
Fiona Hinze, Director  
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

**DATE:** September 6, 2022

**TO:** LR Manager – Shana Dines and MJ Johnson

**FROM:** Flynn Division Manager

**RE:** REQUEST TO RELEASE FROM PERMANENT ENTRANCE PROBATIONARY APPOINTMENT – **Michael McNair, Cap ID #6537**, Class 9163 Transit Operator – Full Time, San Francisco Municipal Railway (MUNI), MTA

In accordance with the Municipal Transportation Agency (MTA), Civil Service Commission Rule 417.9.2 Release of Employee During the Probationary Period, I would like to request your office to initiate the process of releasing Michael McNair from his permanent entrance probationary appointment in the 9163 classification, Transit Operator, effective September 6, 2022.

A review of Michael McNair's personnel file indicates that he had three (3 Discourteous complaints, 2 speeding violation, 2 pass ups and 1 failed to identify on radio):

- (1) CSC complaint 641760 pass up on 8/4/22
- (2) CSC complaint 653563 discourteous to a passenger on 8/19/22
- (3) CSC complaint 654971 speeding on 8/22/22
- (4) CSC complaint 654773 discourteous to a passenger on 8/22/22
- (5) TMC Violation pass up on 8/24/22
- (6) TMC violation failed to identify on radio on 8/24/22
- (7) CSC complaint 657114 discourteous to a passenger on 8/25/22
- (8) Coach 6537 operator McNair was seen on the drive cam EXCN04648 Speeding 9/1/22

After reviewing his overall record, his probationary performance does not meet standards set by the Municipal Transportation Agency and the San Francisco Municipal Railway.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

Greg Valentine  
Assistant Division Manager  
Flynn Division

cc: HR, Union, Employee File



ATTACHMENT F

**EVENT**

EXCN04648

**DRIVER**

Michael McNair (6537)

**VEHICLE**

6717

**TRIGGER**

Braking



Sep 1, 2022, 7:36:39 AM PST

**BEHAVIORS**

Posted Speed Violation

**Lytix Comments**

The event was triggered due to the vehicle braking.

The driver exceeded the posted speed limit.

The driver exceeded the posted speed limit. The driver traveled at 36 MPH (57 km/h) in a 25 MPH (40 km/h) posted speed limit zone (Street Address: Ocean Ave California San Francisco 94112). The posted speed was verified by a leading Posted Speed database provider. Data accuracy depends on a number of factors which may result in occasional reporting variations.

**Event Notes**

*robert mattox* Sep 2, 2022, 12:38:33 PM:

I have reviewed the event and will forward it to the Division for further investigation. Location is E/B Ocean Ave at I 280

ATTACHMENT G

**Muni Customer Service Case Details**

Feedback Details		
Case Number	Status	ADA Status
657114	Investigation completed	Non-ADA
Case Type	Feedback is about	Feedback specifics
Complaint	Discourteous or unprofessional employee	Discourteous or rude behavior
Line or Route and Direction		Vehicle Number
49 Van Ness/Mission Outbound to City College		6632
Incident Details		
Where did this happen?	Date	Time
VAN NESS AVE at NORTH POINT ST	08/25/2022	07:23 AM
What happened?		
<p>I took the bus to work, I work at DPH. I took the 28 from North Point and Powell and transferred to the 49 that was going down Van Ness off of North point. The bus driver was actually making people run from the back of the bus to the front because he didn't want to open the doors. If they didn't run to the front or get there on time he would leave them. He left the first group of people at Van Ness and California at 7:29AM, and the second group of people at Van Ness and McAllister at 7:33 AM. He was making people's lives harder, it seemed like he was having an issue within himself. I forgot my card today so I couldn't pay, and when I told him that I was going to report him he said "Why don't you tell them you didn't pay". He is not the usual driver for this line, he was filling in.</p>		
Operator Details		
Operator Name	Operator ID	
Michael McNair	6537	



**Transportation Management  
Center  
Violation Report**

<b>Day:</b> Wednesday	<b>Date:</b> 08/24/2022	<b>Time:</b> 0745 hrs	
<b>Name:</b> Caruso		<b>TMC #</b> 11	
<b>Run:</b> 445	<b>Line:</b> 14R	<b>Vehicle:</b> 6648	<b>Operator ID:</b> 6537
<b>Location:</b> Mission and Geneva		<b>Direction:</b> IB	
<b>The following violations were observed for the employee listed above:</b>			
<input checked="" type="checkbox"/> General rules		Operator Conduct	
Communications		Cable Car Operations	
Operating Rules	<input checked="" type="checkbox"/>	Schedule	
Signals & Signs		Major Safety	
Communicating with Passengers		No Show	
Off Route		Miscellaneous ( )	
Unreported Incidents			
<b>Rule Violation Number(s):</b>	2.15.5, 4.15.1, 3.2.2, 4.17		
<b>Violation Description:</b>			
<p>Run 310/14/7291 contacted TMC to report multiple 14R coaches skipped Mission and Geneva. TMC contacted Run 445/14R/6537 to inquire if the stop was serviced. Operator confirmed the stop was skipped. Also of note Run 806 was not out, there was no 14R at this stop from 0729 hrs to 0749 hrs. This Run was a short 14R starting at Lowell, Geneva is run 443's 2nd stop, no reports of a full coach needing to skip stops. Video sent to Flynn.</p> <p>4.15.1 Cars and coaches shall stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 A.M. and 8:30 P.M.</p> <p>3.2.2 Operators must identify themselves by run number, line number, vehicle number, direction, operator ID and current location.</p> <p>4.17 Passing Up Passengers</p>			
<b>Previously Consulted:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Number of Times Consulted:</b>
<b>Copy to:</b>	<input checked="" type="checkbox"/> Division Superintendent / Operations <input type="checkbox"/> Other _____ <input type="checkbox"/> Maintenance <input type="checkbox"/> Cable Car <input checked="" type="checkbox"/> Flynn <input type="checkbox"/> Green / MME <input type="checkbox"/> Islais Creek <input type="checkbox"/> Kirkland <input type="checkbox"/> Potrero <input type="checkbox"/> Presidio <input type="checkbox"/> Woods		
<b>Supervisor Signature:</b>			<b>Manager Signature:</b>

**Muni Customer Service Case Details**

Feedback Details		
Case Number	Status	ADA Status
654773	Investigation completed	Non-ADA
Case Type	Feedback is about	Feedback specifics
Complaint	Discourteous or unprofessional employee	Discourteous or rude behavior
Line or Route and Direction		Vehicle Number
49 Van Ness/Mission Inbound to Fort Mason		6729
Incident Details		
Where did this happen?	Date	Time
24th St & Mission St	08/22/2022	9:45 am
What happened?		
<p>The minute I got in the bus 🚌 Driver ask me for fair which is fine I was looking for change because I only had \$5.00 bill ended paying with my \$5.00 he said “ you should be paying more than that “ that’s when I said excuse me he reply I wasn’t talking to you . I move to the back and he said move all the way to the back at this point I felt discriminated. And not only was he rude and disrespectful to me but to everyone who was getting on the bus . Older African American woman got on 20th and mission and he refuse to lower the steps for her and told her “ you should get on the 14th” and from then until she got off on 16th and mission they were both going back and forth. This person should change his attitude and if he don’t like his job don’t work with the public . I’m Very disappointed!!!!</p>		
Operator Details		
Operator Name	Operator ID	
Michael McNair	6537	

ATTACHMENT J

**Muni Customer Service Case Details**

Feedback Details		
Case Number	Status	ADA Status
654971	Investigation completed	Non-ADA
Case Type	Feedback is about	Feedback specifics
Complaint	Unsafe operation of a Muni vehicle	Speeding
Line or Route and Direction		Vehicle Number
49 Van Ness/Mission Outbound to City College		6729
Incident Details		
Where did this happen?	Date	Time
VAN NESS AVE at CHESTNUT ST	08/22/2022	01:03 PM
What happened?		
<p>Patron stated, When I got on the bus the driver only opened the front door and he just kept gesturing for everyone to come up to the front to get on. There were people who were older and a lady with a stroller at some point. He was driving really fast between the stops gesturing for people to get on. After his shift ended at Van Ness and Market he got off the bus and crossed the street and the red light then changed his mind and came back against the red light. I have a photo and video of him if anyone needs it.</p>		
Operator Details		
Operator Name	Operator ID	
Michael McNair	6537	

ATTACHMENT K

**Muni Customer Service Case Details**

Feedback Details		
Case Number	Status	ADA Status
653563	Investigation completed	Non-ADA
Case Type	Feedback is about	Feedback specifics
Complaint	Discourteous or unprofessional employee	Discourteous or rude behavior
Line or Route and Direction		Vehicle Number
9R San Bruno Rapid Outbound to Visitacion Valley		6711
Incident Details		
Where did this happen?	Date	Time
4TH ST at MARKET ST	08/19/2022	03:10 PM
What happened?		
<p>Patron stated, " As it pulled up he opens up the front door. My husband and we ended up boarding the back. When we asked why he simply replied "Did yall pay" He should not have asked that, that is discrimination. When he ended up picking up other further down the line that were not African American he did not ask the same question."</p>		
Operator Details		
Operator Name	Operator ID	
Michael McNair	6537	

ATTACHMENT L

**Muni Customer Service Case Details**

Feedback Details		
<b>Case Number</b>	<b>Status</b>	<b>ADA Status</b>
641760	Investigation completed	Non-ADA
<b>Case Type</b>	<b>Feedback is about</b>	<b>Feedback specifics</b>
Complaint	Pass ups, denial of service or staff inattention	Pass up
<b>Line or Route and Direction</b>		<b>Vehicle Number</b>
14R Mission Rapid Inbound to Downtown		6722
Incident Details		
<b>Where did this happen?</b>	<b>Date</b>	<b>Time</b>
8TH ST at MISSION ST	08/04/2022	08:30 AM
<b>What happened?</b>		
Patron called to file a complaint in regards to getting passed up. The caller stated that there was 5 people waiting for the bus and there was more than enough room to allow additional passengers onboard.		
Operator Details		
<b>Operator Name</b>	<b>Operator ID</b>	
Michael McNair	6537	





## Muni Customer Service Case Details

Feedback Details		
<b>Case Number</b>	<b>Status</b>	<b>ADA Status</b>
619902	Item under investigation	Non-ADA
<b>Case Type</b>	<b>Feedback is about</b>	<b>Feedback specifics</b>
Complaint	Pass ups, denial of service or staff inattention	Passed up while waiting at stop
<b>Line or Route and Direction</b>		<b>Vehicle Number</b>
38R Geary Rapid Outbound to The Richmond		6695
Incident Details		
<b>Where did this happen?</b>	<b>Date</b>	<b>Time</b>
20TH AVE at GEARY BLVD	07/01/2022	3:21 PM
<b>What happened?</b>		
<p>The driver Run 499 Bus 6695 had a red light at the outbound Geary and 20th ave stop and refused to open the door for an elderly woman that was running for the bus despite the fact that he let another passenger off while the light was red the bus haven't even pulled away from the stop yet because the light was still red the tape should get pulled for evidence. I'm available for questions</p>		
Operator Details		
<b>Operator Name</b>	<b>Operator ID</b>	
Michael McNair	6537	



## Transportation Management Center

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### Violation Report

<b>Day:</b>	Thursday	<b>Date:</b>	06/30/22	<b>Time:</b>	1603 hrs
<b>Name:</b>	Jaime Gutierrez			<b>TMC #</b>	96
<b>Run:</b>	499	<b>Line:</b>	38R	<b>Vehicle:</b>	6642
				<b>Operator ID:</b>	6537
<b>Location:</b>	Geary / Park Presidio			<b>Direction:</b>	I/B
<b>The following violations were observed for the employee listed above:</b>					
<input checked="" type="checkbox"/>	General rules	<input checked="" type="checkbox"/>	Operator Conduct		
<input type="checkbox"/>	Communications	<input type="checkbox"/>	Cable Car Operations		
<input checked="" type="checkbox"/>	Operating Rules	<input type="checkbox"/>	Schedule		
<input type="checkbox"/>	Signals & Signs	<input type="checkbox"/>	Major Safety		
<input type="checkbox"/>	Communicating with Passengers	<input type="checkbox"/>	No Show		
<input type="checkbox"/>	Off Route	<input type="checkbox"/>	Miscellaneous ( )		
<input type="checkbox"/>	Unreported Incidents	<input type="checkbox"/>			
<b>Rule Violation Number(s):</b>	2.3.1, 2.8.3, 2.8.11, 4.15.1, 4.15.2, 4.15.3, 4.16.1				
<b>Violation Description:</b>					
<p>op: 4199 run: 222 line:38 veh: 6642 called in to TMC to register thier dismay with run 499. Apperently this operator was dragging the line, and avoiding making stops at the 38R appointed stops. When I called Operator 6537 to merely ask them to make sure all of the 38R stops are made; thier insolence, and lack of radio protocol made me ask 1C29B Aguirre to probe them at the SF Transit center terminal (Inspector Aguirre will submit their T12). I also instructed Operator 4199 to write a miscelaneous report on operator 6537. I've pulled tape of both inbound runs, and sent them to Islais Creek and Flynn Divisions for Superintendent's review. If audio is needed any manager at TMC can pull it. My workstation is CTX003 motorola hand held in the server room at 1 South Van Ness, 8th Floor.</p>					
<b>Consulted:</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Number of Times Consulted:</b>	1	
<b>Copy to:</b>	<input type="checkbox"/> Division Superintendent / Operations <input checked="" type="checkbox"/> Other <u>Central Managers</u> <input type="checkbox"/> Maintenance <input type="checkbox"/> Cable Car <input checked="" type="checkbox"/> Flynn <input type="checkbox"/> Green / MME <input checked="" type="checkbox"/> Islais Creek <input type="checkbox"/> Kirkland <input type="checkbox"/> Potrero <input type="checkbox"/> Presidio <input type="checkbox"/> Woods				
<b>Supervisor Signature:</b>	<i>Jaime Gutierrez</i>		<b>Manager Signature:</b>		

# Exhibit O



## CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

### NOTICE OF RECEIPT OF APPEAL

DATE: September 14, 2022  
REGISTER NO.: 0149-22-7  
APPELLANT: MICHAEL MCNAIR

Jeffrey Tumlin  
Director of Transportation  
Municipal Transportation Agency  
1 South Van Ness Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Tumlin:

The Civil Service Commission has received the attached letter from Michael McNair, requesting a hearing on his future employability with the City and County of San Francisco. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention by email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org). CSC Form 13 is available on the Civil Service Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService) under "Forms."

In the event that Michael McNair's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on November 23, 2022**, so that it may be heard by the Civil Service Commission at its meeting on December 5, 2022. If you will be unable to transmit the staff report by the November 23<sup>rd</sup> deadline, or if required departmental representatives will not be available to attend the December 5, 2022, meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

You may contact me at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) or (628) 652-1100 if you have any questions. For more information regarding staff report requirements, meeting procedures or future meeting dates, please visit the Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService).

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

Cc: Kimberly Ackerman, Municipal Transportation Agency  
Romika Williams, Municipal Transportation Agency  
Shana Dines, Municipal Transportation Agency



# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

*Sent via Email*

September 14, 2022

Michael McNair  
[REDACTED]

**Subject: Register No. 0149-22-7: Request for Hearing on Future Employment Restrictions with the City and County of San Francisco.**

Dear Michael McNair:

This is in response to your appeal submitted to the Civil Service Commission on September 13, 2022, requesting a hearing on your future employment restrictions with the City and County of San Francisco. Your appeal has been forwarded to the Municipal Transportation Agency for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form.

The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. However, the Commission **CANNOT** reverse the department's decision to terminate your employment. In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date by email to [civilservice@sfgov.org](mailto:civilservice@sfgov.org). Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) or by phone at (628) 652-1100 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService).

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer



**CIVIL SERVICE COMMISSION**  
**City and County of San Francisco**  
 25 Van Ness Avenue, Suite 720  
 San Francisco, California 94102-6033  
 Executive Officer  
 (628) 652-1100

CSC Register No.  
0149-22-7  
 To: X J. Tumlin  
 CC: K. Ackerman  
R. Williams  
S. Dines

**APPEAL TO THE CIVIL SERVICE COMMISSION**

<p><b>INSTRUCTIONS:</b>          Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above <b>within the designated number of days</b> following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. (E-mail is not accepted.) It is recommended that you include all relevant information and documentation in support of your appeal.</p>	<p><b>TYPE OF APPEAL:</b> (Check One)</p> <p><input type="checkbox"/> Examination Matters (by close of business on 5<sup>th</sup> working day)</p> <p><input type="checkbox"/> Employee Compensation Matters (by close of business on 7<sup>th</sup> working day) - Limited application</p> <p><input type="checkbox"/> Personal Service Contracts (Posting Period)</p> <p><input type="checkbox"/> Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)</p> <p><input checked="" type="checkbox"/> Future Employability Recommendations (See Notice to Employee)</p>
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"During the Shelter Order dated March 17, 2020, we are accepting appeals by email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org)"

Michael McNair Full Name of Appellant  
 \_\_\_\_\_ Work Address  
 \_\_\_\_\_ Work Telephone

9163 Job Code  
Bus Operator Title  
 \_\_\_\_\_ Department

\_\_\_\_\_ Residence Address  
 \_\_\_\_\_ City State Zip Home Telephone

Roger A250 Full Name of Authorized Representative (if any)  
415 378 1208 Telephone Number of Representative (including Area Code)

**NOTE:** If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

Email: \_\_\_\_\_

**COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE.** (Use additional page(s) if necessary)

<p>Does the basis of this appeal include <b>new</b> information not previously presented in the appeal to the Human Resources Director? If so, please specify.</p>	<p>Check One:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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Michael McNair Original Signature of Appellant or Authorized Representative  
 \_\_\_\_\_ Date 9/13/22

CSC-12 (5/2021) Date Received by Civil Service Commission: \_\_\_\_\_



**From:** [Dines, Shana](#)  
**To:** [Johnson, MJ](#); [Sanchez, Milyn](#); [Garcia, David](#)  
**Subject:** FW: Notice of Appeal - Michael McNair  
**Date:** Thursday, September 15, 2022 10:03:44 AM  
**Attachments:** [Michael McNair.pdf](#)

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FYI – Report due Nov 23 @ 11am, for meeting on Dec 5.

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**From:** Aldana, Elizabeth (CSC) <elizabeth.aldana@sfgov.org>  
**Sent:** Wednesday, September 14, 2022 3:10 PM  
**To:** Tumlin, Jeffrey <Jeffrey.Tumlin@sfmta.com>  
**Cc:** Ackerman, Kimberly <Kimberly.Ackerman@sfmta.com>; Williams, Romika <Romika.Williams@sfmta.com>; Dines, Shana <Shana.Dines@sfmta.com>; Eng, Sandra (CSC) <sandra.eng@sfgov.org>; Holmes, Lavena (CSC) <lavena.holmes@sfgov.org>  
**Subject:** Notice of Appeal - Michael McNair

Dear Mr. Tumlin:

Please find the attached notification regarding the appeal filed by Michael McNair. Your review and action is required. This shall serve as formal notification; you will not receive a hard copy via interoffice mail.

**[Effective December 1, 2020 the Civil Service Commission new telephone number is \(628\) 652-1100](#)**

*Elizabeth Aldana*  
*Civil Service Commission*  
*City & County of San Francisco*  
*628-652-1100 (P)*