



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

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

May 25, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Neil Weingarten
[REDACTED]

**SUBJECT: APPEAL BY NEIL WEINGARTEN OF THE DIRECTOR OF
TRANSPORTATION'S DETERMINATION TO ADMINISTRATIVELY CLOSE
APPELLANT'S COMPLAINT OF HARASSMENT AND DISCRIMINATION.**

Dear Neil Weingarten:

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 **June 5, 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 under "Meetings" no later than end of day on Wednesday, May 31, 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 is 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 by **5:00 p.m.** on **Tuesday, May 30, 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.

It is important that you or an authorized representative attend the hearing on your appeal. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance. As a reminder, you are to be honest and forthright during all testimony and in all documentation that you provide to the Civil Service Commission.

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

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Jeffrey Tumlin, San Francisco Municipal Transportation Agency
Amalia Martinez, Department of Human Resources
Virginia Harmon, San Francisco Municipal Transportation Agency
Jennifer Burke, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
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Commission File
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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, or on the City’s website at www.sfgov.org/bdsupvrs/sunshine.

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**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

May 25, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Dante King
[REDACTED]

SUBJECT: APPEAL BY NEIL WEINGARTEN OF THE DIRECTOR OF TRANSPORTATION'S DETERMINATION TO ADMINISTRATIVELY CLOSE APPELLANT'S COMPLAINT OF HARASSMENT AND DISCRIMINATION.

Dear Dante King:

As you may be aware, Neil Weingarten filed the above-referenced discrimination complaint with the Department of Human Resources ("DHR"). The Department of Human Resources reviewed Neil Weingarten's allegations, and the Human Resources Director determined that there was insufficient evidence to establish the claims of harassment and discrimination. Neil Weingarten has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify, or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds discrimination in the work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Neil Weingarten's complaint at 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 **June 5, 2023, at 2:00 p.m.** The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Neil Weingarten's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. You will be receiving a meeting invite to join the meeting through Cisco WebEx on your computer or you may listen/respond to the meeting by phone. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

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Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Jeffrey Tumlin, San Francisco Municipal Transportation Agency
Amalia Martinez, Department of Human Resources
Virginia Harmon, San Francisco Municipal Transportation Agency
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**LONDON N. BREED
MAYOR**

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Luke Jones
[REDACTED]

SUBJECT: APPEAL BY NEIL WEINGARTEN OF THE DIRECTOR OF TRANSPORTATION'S DETERMINATION TO ADMINISTRATIVELY CLOSE APPELLANT'S COMPLAINT OF HARASSMENT AND DISCRIMINATION.

Dear Luke Jones:

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

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

May 25, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Mary Travis-Allen

SUBJECT: APPEAL BY NEIL WEINGARTEN OF THE DIRECTOR OF TRANSPORTATION'S DETERMINATION TO ADMINISTRATIVELY CLOSE APPELLANT'S COMPLAINT OF HARASSMENT AND DISCRIMINATION.

Dear Mary Travis-Allen:

As you may be aware, Neil Weingarten filed the above-referenced discrimination complaint with the Department of Human Resources ("DHR"). The Department of Human Resources reviewed Neil Weingarten's allegations, and the Human Resources Director determined that there was insufficient evidence to establish the claims of harassment and discrimination. Neil Weingarten has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify, or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds discrimination in the work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Neil Weingarten's complaint at 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 **June 5, 2023, at 2:00 p.m.** The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Neil Weingarten's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. You will be receiving a meeting invite to join the meeting through Cisco WebEx on your computer or you may listen/respond to the meeting by phone. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

The June 5, 2023, meeting agenda will be posted on the Civil Service Commission's website at www.sf.gov/CivilService under "Meetings" no later than end of day on Wednesday, May 31, 2023.

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 should you have any questions.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Jeffrey Tumlin, San Francisco Municipal Transportation Agency
Amalia Martinez, Department of Human Resources
Virginia Harmon, San Francisco Municipal Transportation Agency
Jennifer Burke, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Estevan Villareal, 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 and the web address is 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 (4th) 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

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

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.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the 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: 0043 - 23 - 6
 2. For Civil Service Commission Meeting of: June 5, 2023
 3. Check One: Ratification Agenda
 Consent Agenda
 Regular Agenda X
 4. Subject: Appeal by Neil Weingarten of the Director of Transportation's
 determination to administratively close Appellant's complaint of
 harassment and discrimination.
 5. Recommendation: Adopt the report, uphold the decision of the Director of
 Transportation and deny the appeal by Neil Weingarten.
 6. Report prepared by: Estevan Villarreal, DHR EEO Telephone number: (415) 662-0020
 7. Notifications: Please see attached.
 8. Reviewed and approved for Civil Service Commission Agenda:
Municipal Transportation Agency Director: ^{for} Jeffrey Tumlin 
- Date: May 25, 2023
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 box to the right using the time-stamp in the CSC Office.

<u>CSC RECEIPT STAMP</u>

Attachment

NOTIFICATIONS

Neil Weingarten (Appellant)

[REDACTED]
[REDACTED]
[REDACTED]

Dante King (Respondent)

[REDACTED]
[REDACTED]
[REDACTED]

Luke Jones (Respondent)

[REDACTED]
[REDACTED]
[REDACTED]

Mary Travis-Allen (Respondent)

[REDACTED]
[REDACTED]
[REDACTED]

Jeffrey Tumlin

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estevan.villarreal@sfgov.org

CIVIL SERVICE COMMISSION REPORT

MEMORANDUM

TO: Civil Service Commission

THROUGH: Jeffrey Tumlin, Director of Transportation ^{for}
San Francisco Municipal Transportation Agency 

THROUGH: Carol Isen, Director
San Francisco Department of Human Resources

THROUGH: Amalia Martinez, Director, EEO

FROM: Estevan Villarreal, EEO Programs Senior Specialist

DATE: June 5, 2023

EEO FILE NO: 3362

REGISTER NO: 0043-23-6

APPELLANT: Neil Weingarten

I. AUTHORITY

The San Francisco Charter, Section 8A.104, and Civil Service Rule 403 provide that the San Francisco Municipal Transportation Agency (SFMTA) Director of Transportation shall review and resolve complaints of employment discrimination within SFMTA. Pursuant to Civil Service Rule 403, the Civil Service Commission (Commission) shall review and resolve appeals of the Transportation Director's determinations.

II. BACKGROUND

From January 3, 2013 until July 10, 2020, Appellant Neil Weingarten (Weingarten) was employed as an 0932 Manager IV with SFMTA. Until February 2020, Weingarten was Superintendent for two divisions, Islais Creek and Kirkland. From February to July 2020, Weingarten was Superintendent for Flynn division.

A. Appellant's Complaint, EEO File No. 3362

On November 20, 2019, the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) received Weingarten's complaint alleging discrimination by Dante King (King), then-Leader of Cultural Change, Equity, Employee Experience and Engagement. **See Exhibit (Ex.) A, Attachment (Att.) 1.** On December 12, 2019, then EEO Programs Manager Rebeca Sherman conducted an intake interview with Weingarten. **See Ex. A, Att. 2.** On February 12, 2020, Weingarten reported additional allegations against King, Mary Travis-Allen (Travis-Allen), then Senior Operations Manager for Transit, and Luke Jones (Jones), 9163 Transit Operator. **See Ex. A, Att. 3.** On December 11, 2020, based on Weingarten's allegations, DHR EEO submitted to SFMTA a Charge of Discrimination and a Request for Information. **See Ex. A, Att. 4.**

Jennifer Burke (Burke), then-EEO Programs Senior Specialist, completed the investigation of Weingarten's allegations and submitted her findings to the Transportation Director for review. **See Ex. B, Att. 1.** By letter dated February 10, 2023, the Transportation Director informed Weingarten that based on the investigative findings, the evidence did not substantiate Weingarten's allegations. **See Ex. B., Att. 2.** On March 8, 2023, Weingarten appealed the Transportation Director's determination. **See Ex. C.**

III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION

The issue on appeal is whether the Commission should uphold the Transportation Director's determination. As explained in greater detail below, the Transportation Director correctly determined that the evidence was not sufficient to substantiate Weingarten's allegations, and we respectfully request the Commission uphold this determination.

IV. ANALYSIS & FINDINGS

Weingarten is a member of a protected category based on his race (██████). However, as explained in greater detail below, the evidence did not substantiate Weingarten's allegations of discrimination, harassment, or failure to prevent harassment/discrimination.

A. The Investigation Did Not Substantiate Weingarten's Discrimination Allegations

To sustain a complaint of discrimination in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant is a member of a protected category; (2) the complainant suffered an adverse employment action; and (3) the complainant suffered an adverse employment action because of their membership in a protected category.

Weingarten alleged that King and Jones subjected him to the following conduct based on his race:

- (1) On November 8, 2019, King invited Weingarten to attend a meeting so that King, Jones, and Levels could speak poorly about Weingarten in front of other managers including Travis-Allen; Monica Collins (Collins), then-Acting Assistant Manager; and Emily Williams (Williams), Transit Business & Administration Manager (9179 Manager V). During this meeting King and Jones commented multiple times that Weingarten targeted Levels for discipline based on Levels' race, ██████ and King did not attempt to verify false statements made by Jones and Levels. Additionally, King referred to allegations made by other Operators, commented that Weingarten needed training, and stated that all division managers should have their disciplinary authority removed.
- (2) In January 2020, Jones and Levels asked that King receive a copy of Levels' Step 2 determination letter because Jones and King were working together to portray Weingarten as a racist.
- (3) King and Jones were involved in a racial discrimination lawsuit filed by Liza Williams (Williams), 9163 Transit Operator, and King and Jones shared information that harmed Weingarten's reputation and his ability to perform his job duties.
- (4) In February 2020, Ify Omokaro (Omokaro), then-9172 Manager II, and Anthony Ballester (Ballester), 9163 Transit Operator, both told Weingarten that there were rumors that Weingarten was racist against ██████ Operators. Weingarten further alleged that Jones spread these rumors.
- (5) Weingarten alleged that the above events negatively impacted his ability to perform his managerial duties and harmed his career at SFMTA.

1. The Investigation Did Not Substantiate Weingarten's November 8, 2019 Allegations

Witnesses did not corroborate Weingarten's allegations that King commented on other Operators' allegations, opined on Weingarten's need for training, or stated that all division managers should have disciplinary authority revoked; therefore, these allegations were not substantiated during DHR EEO's investigation. **See Ex. B, Att. 1.**

While the investigation substantiated the remainder of Weingarten's allegations from November 8, 2019, the evidence did not substantiate that this conduct violated the EEO Policy. As Leader of Cultural Change, Equity, Employee Experience and Engagement, King's job duties included addressing EEO concerns within the SFMTA; thus, it was appropriate for King to schedule a meeting to address Levels' claim that Weingarten's discipline was based on Levels' race. Similarly, in his role as a union representative, it was appropriate for Jones to discuss employee complaints or concerns about whether proposed discipline was warranted. Moreover, multiple witnesses confirmed that King's and Jones' beliefs that Weingarten's disciplinary decisions were influenced by race were genuine, in good faith, and based on quantifiable data, thus their comments constitute opposition to discrimination, which is a protected activity and does not violate the EEO Policy. **See Ex. B, Att. 1.** Furthermore, this is a legitimate, nondiscriminatory basis for Kings' and Jones' comments, and the investigation found no evidence that their comments were based on Weingarten's race. **See Ex. B, Att. 1.** Additionally, as a Superintendent, Weingarten's job duties include meeting with staff to identify and resolve conflicts, and dealing with employee complaints, grievances, and criticism of managerial decisions is inherent to that position, thus the alleged conduct was consistent with the terms, conditions, or privileges of his employment. **See Ex. B, Att. 1.** Finally, Weingarten confirmed that this conduct did not result in any discipline. **See Ex. B, Att. 1.** Accordingly, the evidence did not substantiate this discrimination allegation.

On appeal, Weingarten argues that King did not request information about Levels or the recommended discipline, and that all such future meetings were to be attended by Senior Operations Managers rather than Division Managers due to King's and Jones' behavior. **See Ex. C.** However, as previously discussed, the evidence substantiated King's and Jones' conduct was protected opposition to discrimination and was based on Weingarten's conduct, not his race. Moreover, Weingarten also confirmed that this change to future meetings was applied to all Division Managers; this demonstrates that King's and Jones' conduct was not particular to Weingarten, which negates an inference of discrimination. **See Ex. C.** Accordingly, this information substantiates the Transportation Director's no-finding determination.

2. The Investigation Did Not Substantiate Weingarten's January 2020 Allegations

The investigation substantiated that Jones requested that the Level's determination letter be forwarded to King, but the investigation did not substantiate that this conduct violated the EEO Policy. Although a witness confirmed that Jones referred to Weingarten as "a racist," the investigation found that Jones' belief was reasonably based on Weingarten's disciplinary conduct against █████ employees and did not find any evidence that it was based on Weingarten's race, thus this conduct did not violate the EEO Policy. **See Ex. B, Att. 1.** Moreover, as discussed above, it was appropriate for King and Jones to oppose what they reasonably perceived to be race-based discrimination. Accordingly, the evidence did not substantiate this discrimination allegation.

On appeal, Weingarten argues that it was inappropriate for Jones and King to "falsely accuse [Weingarten] of being a racist," and that the SFMTA's analysis did not consider that Jones was removed from his Union

position or that the SFMTA did not retain King. **See Ex. C.** However, the purpose of the investigation was to evaluate Jones' and King's conduct *within the specific context of Weingarten's allegations*; as explained above, the evidence substantiated that Jones' and Kings' conduct *in this context* was based on a legitimate, good faith, non-discriminatory belief that Weingarten's disciplinary decisions were influenced by race, which is protected opposition to discrimination and does not violate the EEO Policy. As such, this information does not change the Transportation Director's determination.

3. The Investigation Did Not Substantiate Weingarten's Allegations Concerning Williams

Weingarten did not provide and the investigation did not find any evidence supporting Weingarten's allegation that King and Jones were involved in Williams's lawsuit, thus this allegation was not substantiated. **See Ex. B, Att. 1.** Moreover, Williams' lawsuit is a protected activity and any participation by Kings and Jones would likewise be protected. Furthermore, Williams' lawsuit is a private action, not a City action, and King or Jones participating in a private lawsuit does not violate the terms, conditions, or privileges of Weingarten's employment.

On appeal, Weingarten argues that King participated in a deposition pertaining to Williams' lawsuit. **See Ex. C.** While this would substantiate that King participated in Williams' lawsuit, this would not be a violation of the EEO Policy because, as explained above, any participation by King or Jones in a private lawsuit would be protected opposition to discrimination and would not violate the terms, conditions, or privileges of Weingarten's employment. As such, this information does not change the Transportation Director's no-finding determination.

4. The Investigation Did Not Substantiate Weingarten's February 2020 Allegations

Weingarten alleged that two co-workers said that Jones spread rumors that Weingarten was racist against [REDACTED] people; however, neither co-worker confirmed this allegation, thus it was not substantiated. **See Ex. B, Att. 1.** Moreover, as previously discussed, Jones' alleged conduct was not discriminatory because it was based on Weingarten's conduct, not his race, and was protected opposition to discrimination. Moreover, there is evidence that Jones was acting in his capacity as a union representative and his comments are outside of the scope of the City's EEO Policy to address union representatives' assessments of workplace relations.

Furthermore, the investigation found that Jones' other comments about race were made in Jones' capacity as a union representative, which would not be within the authority of the City's EEO Policy.

On appeal, Weingarten argues that the Transportation Director's determination letter did not confirm that interviews were conducted with the co-workers who told Weingarten that Jones was spreading rumors. **See Ex. C.** However, as explained above, these co-workers were in fact interviewed and, moreover, they did not corroborate Weingarten's allegations. Weingarten also argues on appeal that "false racist accusations" are not a protected activity. **See Ex. C.** However, as explained above, the investigation substantiated that Jones' concerns were genuine and in good faith, and thus were protected. As such, this information does not change the Transportation Director's no-finding determination.

5. The Investigation Did Not Substantiate that King's and Jones' Conduct Negatively Impacted Weingarten's Ability to Perform his Duties and Harmed his Career

No witnesses corroborated Weingarten's claims that allegations of racism negatively impacted his ability to perform his job duties and harmed his career. However, Weingarten could not identify any tangible career limitations. In fact, multiple witnesses consistently identified several possible non-discriminatory reasons why Weingarten struggled with his job duties as Superintendent, including his "strict" and "rigid" managerial style, lack of "people skills," and lack of empathy and awareness of different cultures and backgrounds. Moreover, Weingarten confirmed that multiple superiors supported his decisions regarding Levels' discipline, which contravenes this allegation. **See Ex. B, Att. 1.** As such, the evidence was not sufficient to substantiate this allegation.

On appeal, Weingarten argues that he raised concerns about King and Jones to his managers "much earlier than these events." **See Ex. C.** While Weingarten previously stated that he raised this issue with Brent Jones in June 2019, he did not provide any evidence to substantiate this claim. **See Ex. B, Att. 1.** Moreover, the date of Weingarten's initial interest in leaving SFMTA was not the primary basis for the no-finding determination. Rather, as explained above, the no-finding determination was based predominantly on the substantial evidence that Weingarten's job performance and career challenges were caused by his own management style, which is a non-discriminatory basis, and this information does not change that analysis or determination.

B. The Investigation Did Not Substantiate Weingarten's Harassment Allegations

Witnesses did not confirm Weingarten's allegation that during the November 8, 2019 meeting, Jones said to Weingarten, "You treat [REDACTED] people like slaves," that Jones accused Weingarten of racism during hearings for other Operators, nor that Jones and King spread rumors that Weingarten was racist, thus these allegations were not substantiated. **See Ex. B, Att. 1.** Moreover, as previously discussed, Jones' and King's alleged comments would not be discriminatory because they were reasonably based on Weingarten's conduct, not his race, and were protected opposition to potential discrimination.

On appeal, Weingarten argues that there is no documentation of witnesses not confirming these allegations. **See Ex. C.** However, this information has been provided as part of the appeal response. **See Ex. B, Att. 1.** Weingarten also argues on appeal that Jones' and King's conduct was based on Weingarten's race because he was the only [REDACTED] division manager and thus was "an easy target." **See Ex. C.** However, as previously discussed, the investigation substantiated that Jones' and King's conduct toward Weingarten was based on their reasonable, good faith, data-supported belief that Weingarten's disciplinary decisions were based on race. As such, this information does not change the Transportation Director's no-finding determination.

C. The Investigation Did Not Substantiate Weingarten's Failure to Prevent Allegations

The evidence did not substantiate that Travis Allen failed to prevent discrimination or harassment during the November 8, 2019 meeting. As previously explained, the evidence substantiated that Jones' and King's conduct was neither discrimination nor harassment. Moreover, Travis-Allen denied this allegation, and witnesses did not corroborate that Jones and King made false allegations, nor that their conduct warranted addressing. **See Ex. B, Att. 1.** As such, the evidence did not substantiate Weingarten's allegation of failure to prevent harassment or discrimination.

V. RECOMMENDATION

For all the reasons set forth above, the Transportation Director's decision should be upheld and the appeal should be denied.

VI. APPENDIX/ATTACHMENTS TO REPORT

Attached to this report are the following exhibits:

- Exhibit A: A.1 – Complaint of Discrimination, EEO File No. 3362, dated November 20, 2019
 A.2 – Intake Interview, EEO File No. 3362, dated December 12, 2019
 A.3 – Follow-Up Questions and Responses, EEO File No. 3362, dated February 20, 2020
 A.3 – Charge of Discrimination, EEO File No. 3362, dated May 10, 2021
- Exhibit B: B.1 – Investigative Report, EEO File No. 3362, dated February 10, 2022
 B.2 – Determination Letter, EEO File No. 3362, date February 10, 2022
- Exhibit C: Weingarten's Appeal, Register No. 0043-23-6, dated March 8, 2023

EXHIBIT A.1:
Complaint of Discrimination, EEO File No. 3362
November 20, 2019

Sherman, Rebecca (HRD)

From: Sherman, Rebecca (HRD)
Sent: Wednesday, November 20, 2019 8:17 PM
To: Weingarten, Neil (MTA)
Cc: Harmon, Virginia (MTA); criss@sfmea.com
Subject: RE: EEO Concern

Categories: SFMTA EEO

Hi Neil:

Thank you for your email. We can absolutely schedule a meeting when you return. I will actually be out of the office 12/2 through 12/4, returning on 12/5. I'll give you a call on 12/5 and we can coordinate schedules, but in the meantime, I am going to hold 9:00-11:00AM on Friday 12/6 on my calendar.

Safe travels,



Connecting People with Purpose

Rebecca L. Sherman, EEO Programs Manager
(She, Her, Hers)
Department of Human Resources
One South Van Ness Ave., 4th Floor
San Francisco, CA 94103
Phone: (415) 551-8950
Website: www.sfdhr.org

From: Weingarten, Neil [mailto:Neil.Weingarten@sfmta.com]
Sent: Wednesday, November 20, 2019 8:01 PM
To: Sherman, Rebecca (HRD)
Cc: Harmon, Virginia (MTA); criss@sfmea.com
Subject: Fw: EEO Concern

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Rebecca:

The email below was sent to Virginia Harmon yesterday. Virginia has informed me that EEO concerns from the SFMTA are being investigated by DHR and furnished me with your contact information. I will be out of the office until 12/2/19 so, I wanted to provide you with the information below, before leaving the country. Upon my return, I would like to schedule a meeting to provide you with additional information.

Regards,
Neil Weingarten

Division Manager
Kirkland & Islais Creek Divisions

From: Weingarten, Neil
Sent: Tuesday, November 19, 2019 3:11 PM
To: Harmon, Virginia <Virginia.Harmon@sfmta.com>
Cc: criss@sfmea.com <criss@sfmea.com>
Subject: EEO Concern

Dear Virginia:

I was invited to a meeting on Friday, 11/8/19 by Dante King. Islais Creek Operator Robbie Levels had apparently requested "a meeting with management". The participants of the meeting were me, Dante King, Operator Robbie Levels, Islais Creek Union Chair Luke Jones, Former Acting Assistant Manager Monica Collins, Mary Travis-Allen, & Emily Williams. I received the meeting invitation but was provided no context about the subject matter. Dante admitted, in the meeting, he had several conversations with Operator Levels in preparation for the meeting. This left me at a significant disadvantage because I believe his opinions were predetermined since he did not contact me prior to the meeting.

As the only [REDACTED] Division Manager, I believe I was an easy target for this discriminant attack on my work based solely on my protected category. The accusations against me have no merit and it was very disconcerting to have this opinion about me discussed with employees I supervise.

Throughout the meeting references were made about the distribution of discipline at the SFMTA. The assumption was presented that Operator Levels must be a victim of the same seemingly targeted discipline based on race. Dante also made statements about allegations made by other Operators, towards me, and proceeded to provide his opinion of my training needs while two of my employees were in attendance. Additionally, he stated that all Division Managers should have their disciplinary authority removed.

I feel that from the onset of the meeting my integrity was questioned. It was further perpetuated with Dante's request for documentation from me; but, the acceptance of the Operator at her word. This is the same Operator who is spreading word around our division that she is going to "run me out." This information should at least bring the honesty and motivation of Operators Levels and Jones into question.

Afterwards, Dante thanked me for my demeanor during the meeting. I appreciated this sentiment, but I left the building feeling affronted and demeaned. All employees need respect in the workplace and the comments and perceptions he presented, with subordinate employees in attendance, may have lasting effects at the division level.

In conclusion, Dante directed an abundance of commentary and concerns about his perception of the treatment of [REDACTED] Operators at the SFMTA towards me. Dante King used this meeting as a platform to single me out, based on race; and, his comments have severe and pervasive impacts on my ability to manage.

Please contact me at your earliest convenience and I will provide additional details.

Regards,
Neil Weingarten

Division Manager
Kirkland & Islais Creek Divisions
415-542-6388

EXHIBIT A.2:
Intake Interview, EEO File No. 3362
December 12, 2019

12/12/19

MTG W/ NN & PEP.

- Rec'd email notice from Dante requested by a transit operator
- Had been dealing w/ 4 MISSOATS (5 but pulled one) - Robbie

MISSOATS & ANOL IN MOV - ~~3rd~~ up to 5 days
 4th up to 10 days

- Robbie had [redacted] - 15/16 working days
- Issue w/ no relief - in convo w/ TMC -
- Failed to notify TMC had ADA passenger refused to get off - ^{move to yard}

Mtg w/ Robbie & Union rep scheduled; during scheduled Mtg time - in breakroom writing grievance -

Mtg scheduled RE [redacted]

Grievance - step II; ELP pulls grievance - sends to EEO

sought guidance from ELP - told issue discipline.

- Rec'd request from Dante - to Mt. Allen; Monica Collins; & E. Williams attend.

- Mtg w/ led a / Mt Allen about totality - [redacted]

- Union chair - Luke Jones - tells NW ^{that peo} being treated like he treats [redacted] people like slaves

- Bereavement leave; NW denied &

0012

let a investigated

Mary & Brent call NW - asks him ab 5-6 letters

Luke has been known to make accusations
raising ongoing/allegations of issues of denying
time off

Dante said - we have more claims against you.
I'm hearing the verbiage you're using

Monica states she was responsible for 1 day
suspension

NW says that all of this is happening bc NW follows
guidelines - which are specified.

Dante hasn't ever asked NW about decision-making ^{didn't} ^{listen}
All these comments are being made in front of employees

Member of mgmt ranked making these comms.

left

Govt called to Brent Jones' office - asked NW to bring Roddie's
file & how they got there. Reviewed everything w/ Brent
NW affirmed

Moved forward w/ term - notified on Tuesday.

Dante's stmts make ~~stms~~ stmts

wants → Dante can't call/hold those mtgs
- NO BASIS IN FACT
- NO request for info from NW

NW following rules
Dante calling on others? [REDACTED]

DATE NO. TTT
Mike Jones, 9163 transit operators, union rep
middle stmts made to others re NW

Dante's Role - Not sure what his role is

-
1. For allegations vs ~~the~~ NW, trust process
 2. Refs to Dept.

MT Allen - concerns about retaliation

NW, Leda, MTA, Brent @ next day mtg

EXHIBIT A.3:

Follow-Up Questions and Responses, EEO File No. 3362

February 20, 2020

Weingarten Follow-Up Questions

Hi Neil, is this still a good time to talk? Great, thanks for meeting today. As I said in the email, I wanted to discuss your complaint in a bit more detail in order to help me identify potential witnesses to interview and be able to conduct a thorough investigation of your claims. 11am – 12:11 p.m.

1. Identity of Flynn Operator who was cc'ed Jones

<p>In your signed charge of discrimination, you alleged that Jones was copied on an email from a Flynn operator, even though Jones does not work at Flynn. Was this in reference to the June 2020 email from Samantha Levels?</p>	<p>Um, I believe it was. I found a copy of the email. Is that accurate.</p> <p>Yes, if my memory serves me right, Samatha Levels.</p> <p>So the other person that is on here, Samanthat Levels, I don't know if that is Robbie Levels. She was an Islais Creek.</p> <p><u>Anthony Ballester</u>, Flynn Chair. He was union chair over at Flynn. He also let me know the rumors were rampant. 9163 Transit Operator. He was also union.</p>
<p>If not, can you clarify what this was in reference to?</p>	

2. Harassment and Potential Witnesses

<p>You identified that others have told you that Luke said that race and racism play a role in your disciplinary decisions. Can you identify those individuals for me? Anyone else?</p>	<p>You can check on Iffy Omokaro. He was my assistant mgr when I got to Flynn. Luke would sit in the break room and have those conversations.</p> <p>I have a weird side note to all these things, last night I got a LinkedIn request from SFMTA supervisor. Didn't remember knowing them, the first thing on the LinkedIn was a message from Dante King.</p> <p>SFMTA supervisor, so I pulled them on their LinkedIn was from Dante King. Early 1900s a hanging and threw me. Didn't accept the person's request.</p> <p>Person: I can tell you. Patricia Johnson.</p>
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	<p>Anyone else: Um, those are the two off the top of my head. And anyone who sat in on the meeting that we had.</p> <p>I am curious if there was conversation in my complaint or charge it is obvious that I was being sued as well. That employee was an Islais Creek operator.</p> <p>Liza Williams. Lawsuit. Case she brought against me was dismissed by the court. When: lawsuit is against the City is ongoing. I was notified dealing with the lawsuit for 1.5 years, still working at MTA. 2020. Thrown out when: Couple of months ago. 2022. End of 2021.</p>
<p>Can you tell me when you believe Luke began disparaging you to others—like, when to the best of your knowledge did this start? And why do you think that date/time frame?</p> <p>When and where were you working at the time?</p>	<p>When: I don't remember the date. Only at Islais Creek for 1.5 years.</p> <p>Incident in my office and had an operator for bereavement pay, they have to bring in some type of documentation. Program in. The program was an uncle who had passed away. The documentation and the nieces and nephews were listed, but this person wasn't on there. I asked for additional documentation. And Luke accused making that call on race. That seemed to be the start. I think it was motivated that Luke had been AWOL and I held him accountable like other and that seemed motivated by the claims.</p> <p>Will get the anem.</p> <p>Super at Islais Creek. Luke was present with this employee.</p> <p>Normal for Union Rep to complain and Luke came marching back in with the oOperator. I really felt this was perpetuated, because I was holding him accountable and he was a bully. This was a whole new tactic. (It is unusual. If we had a member to go in with a bereavement request, that is unusual.) That Luke is a Steward and not a rep. So, a Labor Rep is hired by the union. Criss a Rep, I'm on payroll. A steward is an employee to help enforce the contract, contractual violations, negotatie a solution. They can't engage the employee using attonryes with ficdicuary.</p>

	<p>Supposed to be elected. One is on payroll and one is a voluntary.</p> <p>Steward acting in a Union role: MEA doesn't have Steward, the union and it is in their contract and union sends shop steward names. That's how their notified. Now, sometimes it doesn't happen, but it is supposed. People will now, I'm sure said Luke is the shop steward. No reason to believe that's not the case. It would be a given that he was acting as a Steward. When he's acting as a steward, legal responsibilities of the union. If he's disparaging, then the union will hold that liable. So it is important orle, but you have renegade people, thought he was doing the right thing. MT 250A.</p> <p>Luke was removed the shop steward due to allegations, making allegations like this toward the Pres/VP of in charge of union. Making race-based allegations against union itself. I was told. Who told you: I may have to chew. Quite some time ago.</p> <p>I spoke Brent Jones about it. Brent felt Luke was using race as a tactic for me. I could file an EEO complaint, which I eventually did.</p> <p>When at Islais Creek: I may have to get that for you. ??? until Feb 2020.</p> <p>Monica Collis worked with me as an Asst. Superintendent., she'd be great to talk to.</p> <p>The majority of those complaints started at Islais Creek, I had a couple over 5 plus years. And then all of the sudden Islais Creek for a while. I think Luke had a lot to do with that.</p> <p>Candidly: I don't know if this is the CAT who is the case, and Dante King's. CAT: Matthew Yan.</p>
<p>You identified that Jones disparaged you to other Operators. Can you identify any potential witnesses for DHR EEO to interview that you think could attest to the fact that Jones disparaged you to others?</p>	

<p>When was Jones at Flynn? Operators at Flynn?</p>	<p>I would say that the other witnesses could say who.</p> <p>Anthony realized how inappropriate it was. Because I had a good work relationship with every shop steward, except Luke. When I first started at Woods Division, I have heard he passed away that helped show me the ropes. When I got to Kirkland, the shop steward would be phenomenal. Anthony was great to work with, you don't always get along. Siegfired Henderson was at Woods. He was ill, might have passed away. Helped show me the ropes.</p> <p>Zhuo Ma. Kirkland, shop stewards. Zhuo. He used to yell at me and I used to reverse them. Zhuo.</p>
<p>Where does Jones work now?</p>	<p>Flynn, no he's at still at Islais Creek.</p> <p>Vice Chair at Flynn before he was appointed Chiar or Steward or Islais Creeek.</p> <p>What's even more amazing Islais Creek. He struggled writing grievances, any time off is an automatic grievance. He was struggling to grievance, you get a grievance letter and violations committed and listed in Skelly letter, you gotta put what I did wrong. And then I'd respond to the letter.</p>

3. Ability to Manage

<p>Can you tell me in greater specificity about how Luke and Dante's alleged conduct affected your ability to manage?</p> <p>Examples of management difficulties?</p> <p>Did you talk about these management difficulties with anyone? Who?</p> <p>Witnesses who would be able to attest to these management difficulties or the facts you're alleging?</p>	<p>You walked on eggshells. Every meeting you had, you were waiting for the accusations to come from it. Any time the bereavement, didn't match, the accusations followed.</p> <p>Terrance Hall, send them to Julie and Mary Travis and have to explain why I asked for more information. Nobody was ever denied time off, just how you were paid. There is a separate batch of money that doesn't count toward their sick or vacation. When I have a fiscal responsibility and Luke would immediately send this. Didn't make sense, like you gave me 3 months ago, but then I get 3 months later, that's sme doing due dilligence. Luke would attack</p>
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	<p>this. You waited for the other shoe to drop, horrible way to live and manage.</p> <p>Criss asks for caucus.</p> <p>Did Luke send email to: yes. And Brent Jones. Would you send me the email chain, I can try. MTA download email and I don't have everything. I might even have paper copies. I think we have for the lawsuit.</p> <p>Continuing on: I felt there were employees at Flynn that probably challenged me without this cloud hanging over them. I'm scared. Little things like Iffy could get the name, he worked at Flynn much longer than I did. We had an individual who demanded to be placed in an admin role and 5-6 people and kept everyone fresh and fair, drive and then work as an admin. Weren't the most senior person, they were demanding to be placed. I had this woman screaming against me and saying I was retaliating against her. I said "what did you do?" I said if I'm retaliating, she didn't have an answer. She was just yelling. Put together, maybe she got the verbal cues, I never disciplined her for screaming at me, I wasn't going to be strong armed and extremely difficult to manage, cloud over you for something you did. When: Don't recall, tenure at Flynn. Who: I don't recall, I think Iffy or Anthony and could go through with Anthony and he'd let me know everything is fine. Anthony walked her into my office and she was yelling and Anthony was giving me a look. I'm interpreting her look, he was sorry. They didn't go badly, I made the call this is how we're going to move forward.</p> <p>Flynn Feb to July 2020.</p> <p>I was trying to come to that airport, not there long.</p>
<p>You identified the Nov 2019 meeting with Robbie Levels and that Jones disparaged you in front of Monica Collins, Marty Travis-Allen, and Emily Williams. Can you identify any future conduct</p>	<p>Anything else: I think the meeting with Luke and Dante King was the ultimate of that. Title of meeting is meeting with Robbie Levels. Would like to meet with mgmt. to discuss concerns. That's all that said about meeting. And it is</p>

<p>from those individuals that you believe to be related to Jones' comments?</p> <p>Any other opportunities you believe you were denied or not considered for in relate to Luke or Dante's conduct?</p> <p>If so, who was the decision maker?</p> <p>Why do you believe this opportunity was related to Luke or Dante's conduct? How so?</p>	<p>nothing but a character assisination. I'm being accused and</p> <p>No follow up an obliteration of me. He believes the entire Mgmt of Operations should be releivedd of authority to discipline. I would still and thought about it. I 'd have nightmares about this, insane experience.</p> <p>Brent Jones called me and said bring Robbie Levels file with you. So I showed up over there, with backpack and didn't drop it and weight of backpack fall and he's like "what in the world are you carrying?" I said that's her file. 3 volumes. Only reason was the 4th volume in storage. Batch of files in division and outside division. And we went through this issue. Me, Leda, Mary, and Brent and went through what happened the previous day.</p> <p>Brent told any managers to meet with Dante and Leda and Mary should meet with Dante. At the end of the meeting, I was supposed to act and proceed with disciplinary matter at hand. She went home, not first thing in her file, 4 volumes.</p> <p>So when you're looking for a scenario, this meeting.</p>
<p>Did you request any special projects or assignments in 2019? 2020?</p> <p>What? Given/granted or not? Decision maker?</p> <p>Do you think this was related to Luke or Dante's conduct?</p> <p>Why do you say so?</p>	<p>Well, looking for, we have this email that came to Dante and forwaded, including Robbie Levels and Mayor Breed because I'm a racist. I think I even comment that this email went to me and Julie Kirschbaum. I questioned what his motive was there.</p> <p>But as far as other individuals, evne when I was finishing at Islais Creek and Kirkland, impossible to manage. <u>Monica Collins</u>, she was Asst. Manager at Islais Creek, she would talk me down. Every move you make, discussing this topics. Making assumptions, they were housing themselves in his office.</p>

	<p>I know that EEO complaints by [REDACTED] and I can't remember the other gentleman's name. But both of these individuals were on the couch, non-driving status for months on end, because the Mgr of SFMTA Trainign dpet deemed they were unfit to drive MTA vehicles. They didn't file an EEO complaint against him, they filed it against me, I was the paper pusher because. Paper pusher: They report to me, they were deemed, I had to do the Skelly, rep at Step 2. I went into head of HR. MTA HR. I marched into his office prior to Stpe 3 meeting, if you don't get Ken Anderson in here, I'm out. I'm not the bad guy, I just did the paperwork. I didn't deem them unfit to drive. What triggered: There wasn't a clear cut policy, youhad two individuals who were displaying bad behavior and no responsibility. Ken Anderson said they couldn't go back out. Nobody filed an EEO complaint against me. Driving violations, MTA have commercial drivers lics, held to a different protocol. The police could site the other person but ou could be held accountable by rules of MTA. The Superintendent we didn't have the discretion to deem these were avoidable. Early on, we could change a determination, I did it once in Woods and never did it again. We have safety specialists, I'm not trained to be an Operator. Some of my colleagues would do, I didn't do it. I left that in hands of pro</p>
<p>Did you apply for any promotional opportunities in 2019? 2020?</p> <p>Denied any?</p>	<p>Here's how I can wrap this up for you. Someone asked Julie K. why I ran 2 division, I ran a new bus division in 30 years, while managing another diivison in the side of the side. Kirkland across from Pier 39 and IC is at Ceasar Chavez. I ran them. When I said I was leaving, Leda asked me if there is a promotion, would that keep you? I said it was time for me to go. I felt like I could not manage with this cloud being created. Quite frankly and nobody stepping in, I had people sitting there and nobody filed this complaint.</p> <p>Brent Jones satid to me, Luke is using race as a tactic against you. I thought to myself. Brent and Mary Travis, she's required to go. But nobody</p>

	<p>stepped in because it was political. I asked Brent who has filed complaints against a union charid. I asked how is Julie going to react when I do this. I never filed something like this in my life. If I thought I had a different route. I've been an airlines, is the only one I've ever done. I felt like I had no way out. I'm so thankful that this posting came. Even if was still Manager 4, lateral move.</p> <p>Pay differential , City class and were both Manager 4. Did you lose money, I did not. I'm thrilled to be here. The joke was at MTA how I wound up there, I said, "well, they asked me what commercial license."</p> <p>No, I applied for another job in the AIR. When did you apply for that, before that one. 2019. Don't recall what the title was, it was a finance role, but it gave me a great opportunity to interview and give a feel. I would've been stunned, not the job, but great opportunity to apply. Parking and facilities.</p> <p>MTA was senior operations manager and I felt stifled, I wasn't going to be go up and ability to make change. And candidly, I had to talk to my boss. I was scared to death that this lawsuit or EEO was going to pop during the interview. Criss was supporting me. I'm scared to death to move to AIR. Took forever to go through. When: June/ July 2019.</p> <p>Applying to jobs: Couldn't be effective as a leader.</p> <p>Any witnesses: Monica Collins will tell. Leda Rozier, first boss at MTA. She was my superintendent and Senior Operations manager when I left MTA.</p>
<p>Any other career growth or opportunities you believe you lost or harmed by Luke and Dante's conduct?</p> <p>What?</p> <p>Decision maker?</p> <p>Connection to Luke and Dante's conduct?</p> <p>Why do you say so?</p>	

Can you identify any potential witnesses for DHR EEO to interview that you think could attest to the fact that your ability to manage was impacted due to these rumors and statements?

Anything else: I don't know what else to say. It just felt very singled out. I was very clear in my charge, I knew that I was the only [REDACTED], during most of my tenure. I really felt singled out. Showed when nobody bothered with Ken Anderson and filed complaints against me. Individually, I just write a Skelly officer was not brought into the case. The very first EEO matter at MTA, Operator claimed I treated him by disciplining him when I didn't discipline other. The oddest part was EEO, interview, I had actually never disciplined the person, I never disciplined. The other strange part was I treated them differently, they were threatened out on the line, didn't show up, I sent the police department/wellness check. Accused employee. I never disciplined. When: early I know he was at Islais Creek or Kirkland, 2018/2019.

So at some point, you know especially, in my mind, every leader will have some of these accusations and runs rampant at MTA. But this something happened when exponentation levels with Dante and Luke, never experienced anything like this in my life. That's where I just said enough, can't do this anymore and prior, I spoke to Brent Jones June 2019 about Luke using this tactic. Somewhere I have email, documented my conversation, this shows early on Islais Creek.

I was besides myself, I had only met Dante and I took one of his classes, only met the guy. Never asked my opinions about anything.

Emily Williams, she sat in on the meeting with Dante.

EXHIBIT A.4:
Charge of Discrimination, EEO File No. 3362
May 10, 2021

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF HUMAN RESOURCES

CHARGE OF DISCRIMINATION

(To be Completed by EEO Staff in Consultation with Complainant)

1. Complainant: Neil Weingarten, 9174 Manager IV Email Address: [REDACTED]
Address: [REDACTED] Work Phone: _____
Cell Phone: [REDACTED]

2. Respondent Department: San Francisco Municipal Transportation Agency (SFMTA)
Individual Respondent(s): Dante King (9180 Manager VI), Luke Jones (9163 Transit Operator),
Mary Travis-Allen, then-9180 Manager VI
Worksite: Islais Creek and Kirkland Divisions Telephone No.: _____
Address: _____

3. Complainant's Current Employment Status (circle one): Classification: 9174 Manager IV
PCS TCS TPV **PEX** TEX PROB NOT A CITY EMPLOYEE

4. Basis of Discrimination (specify):
 Race: [REDACTED]
 Color: _____
 Religion: _____
 Creed: _____
 Sex: _____
 National Origin: _____
 Ethnicity: _____
 Age: _____
 Disability/Medical Condition: _____
 Political Affiliation: _____
 Sexual Orientation: _____
 Ancestry: _____
 Marital or Domestic
Partner Status: _____
 Gender Identity: _____
 Parental Status: _____
 Other Non-Merit Factors: _____
 Retaliation: _____

5. Issue complained of:
 Denial of Employment
 Denial of Training
 Denial of Promotion
 Denial of Reasonable Accommodation
 Termination
 Lay-off
 Constructive Discharge
 Disciplinary Action
 Harassment
 Work Assignment
 Sexual Harassment
 Compensation
 Other (specify):
Failure to Prevent Harassment and
Discrimination

6. Has the Complainant filed the complaint with any other local, state or federal agency? Yes No
If yes, please specify: _____

7. Has the Complainant filed a grievance or lawsuit? Yes No
If yes, please specify: _____

8. Is the Complainant represented by a Union or an Attorney? Yes No
Name: Criss Romero Organization/Firm: MEA

Address: 870 Market Street, Suite 490, San Francisco, CA 94102 Phone No.: 415-989-7244

9. Describe specifically and in detail the circumstances of the alleged discrimination. Please include date(s) of adverse employment action(s).

From January 7, 2013 until July 10, 2020, I worked for the SFMTA, most recently as a 9174 Manager IV and Superintendent of Flynn Division. Previously, until February 2020, I was the Superintendent of two divisions, Islais Creek and Kirkland. Luke Jones is a 9163 Transit Operator and Union Chair of the Islais Creek Division. Dante King was Leader of Cultural Change, Equity, Employee Experience and Engagement at SFMTA (9180 Manager VI). As of July 11, 2020, I am no longer with the SFMTA.

I. DISCRIMINATION

A. November 8, 2019 - Meeting and Follow-Up

In November 2019, Jones was representing Robbie Y. Levels, then-9163 Transit Operator, regarding a separate disciplinary matter.

On November 8, 2019, I was invited to a meeting by Dante King. The calendar invitation was titled "Meeting with Robbie Levels", indicating the subject matter was Operator Level's discipline. However, King did not request any records, facts, or background on the discipline in question and only sent a meeting notice. In attendance were King, myself, Jones, Levels, Monica Collins, former Acting Assistant Manager (9139 Transit Supervisor, Mary Travis-Allen, then- Transit Senior Operations Manager (9180 Manager VI), and Emily Williams, Transit Business & Administration Manager (9179 Manager V). Thus, I believe the meeting invitation was a ruse to then speak poorly of me in front of others in management.

During this meeting, Jones and King made multiple verbal references to me targeting Operator Levels due to her race. Jones and Levels made untrue statements and King made no attempt to verify the veracity of their statements. Not only did King not request any of Levels' disciplinary records prior to the meeting, he did not contact me after the meeting for more information. King also made statements about allegations by other operators, provided his opinion of my need for training, and stated that all division managers should have disciplinary authority removed. My manager, Travis-Allen, did not speak to my defense as King made these comments towards me. However, Williams spoke and affirmed that I properly follow all specified guidelines when it comes to discipline and stated that the SFMTA had not been successful at ensuring that all managers were following the guidelines (as I did). I was asked accusatory questions during this meeting that could have led to discipline but was not prepared or given the opportunity to bring union representation.

On November 9, 2019, the next day, I was called to meet with Brent Jones, Acting Chief Transportation Officer, and Leda Rozier, Rail Senior Operations Manager. Jones reviewed Levels' discipline history and stated that my decision to dismiss was correct and that I should proceed. Jones had also previously said, "Luke Jones uses racial accusations as a tactic," indicating awareness that Luke Jones had made such comments and allegations regularly. In addition, Rozier made a comment similar to Williams', which was that other divisions were not closely following the discipline guidelines. During this meeting, I was told I no longer had to communicate or interact with King and that I should continue to follow the procedures and protocols as I had been. Jones also stated Division Managers and Assistant Managers no longer have to meet with King if he makes requests.

B. January 2020 - Step 2 Hearing

In January 2020, when I participated in Operator Level's Step 2 hearing, Jones and Levels asked that a copy of the determination be sent to King. This made it clear to me that King wanted to be involved in

Level's case even though, as stated previously, he at no point contacted me for accurate information and upper management had confirmed I had correctly followed policy. Due to this request, I believe King and Jones continue to discuss complaints against me and disparage me as a racist to others in the Agency. This impacted my career growth and opportunities, as well as my ability to manage.

C. January 2020 - Operator Discipline and Subsequent Lawsuit

On January 18, 2020, a Skelly hearing was held regarding the termination of another Islais Creek driver, Liza Williams, 9163 Transit Operator. Jones also represented Williams. Per the MOU, because the incident involved injury, another manager conducted the Skelly hearing as is protocol, and I prepared the materials. After arbitration, the termination was not upheld and was reduced to a [REDACTED]. Since then, I have been named in a lawsuit that specifically accuses me of being a racist. I believe this is further evidence that King and Jones are involved in the lawsuit, communicating about me and sharing information about me that harms my reputation and ability to conduct my work.

D. February 2020 Continued Rumors

On February 22, 2020, all division managers were reassigned, and I reassigned to Flynn Division. Within my first week at Flynn, I heard from an employee, Ify Omokaro, 9172 Manager II, that there were rumors that I am racist against [REDACTED] drivers. I believe these rumors came from Jones, because he was formerly an operator and "Vice-Chair" of the union at Flynn Division, and because Jones was copied on an email from a Flynn operator, even though Jones does not work at Flynn. This further supports my belief that Jones continues to disparage me, impacting my work.

II. HARASSMENT

During the November 8, 2019 meeting, Jones accused me of being racist against [REDACTED] drivers and said, "You treat [REDACTED] people like slaves."

Jones has represented operators in hearings and made comments about me to others. I understand, from others communicating to me, that Luke has raised allegations of race and racism playing a role in my disciplinary decisions, while Employee and Labor Relations have confirmed multiple times that my decisions are made entirely based on SFMTA's Rules and Regulations guidelines. I believe Jones is spreading this information because he and King have indicated that there are more complaints lined up against me for racism, and because I have already been interviewed for related allegations.

As the only [REDACTED] division manager, I felt I was singled out based on my race. These comments impact my ability to manage, especially when made in front of my subordinate employees. My reputation and career opportunities within the Agency continue to be negatively impacted.

III. FAILURE TO PREVENT

Lastly, as stated in Section I.A., my manager Mary Travis-Allen was present when King and Jones made these accusations and inappropriate comments but failed to take steps to prevent harassment and discrimination. On November 8, 2019, Travis-Allen heard Jones and King make false allegations about me but did not speak up or address them. On November 9, 2019, Travis-Allen was present when upper management, Brent Jones and Leda Rozier, affirmed my decisions were based on proper procedure. Furthermore, Travis-Allen was told at this time that she was at fault for not ensuring that other managers followed the discipline procedures as closely as I did, to which she did not respond and only smiled. At no point did Travis-Allen take action regarding the harassment and discrimination I experienced.


10. Has the Complainant taken any action to resolve the issue(s)? If yes, please specify.

On November 19, 2019, I reported by email to Virginia Harmon, SFMTA EEO Officer. I also brought my concerns to my management, Brent Jones and Mary Travis-Allen.

11. Remedy or corrective action desired by Complainant:

I would like the record to be corrected regarding King's statements and comments about me to others within SFMTA. I would like Jones and King to be required to stop spreading rumors and allegations about me to the rest of the Agency. In addition, Jones and King should both sign statements recanting the accusations and rumors they have made about me.

Completed by:

<small>DocuSigned by:</small>  <small>F22536973CF469...</small>	12/11/2020
EEO Staff's Name and Signature	Date

<small>DocuSigned by:</small>  <small>4D3DA276D9714EE...</small>	12/11/2020
Complainant's Name and Signature	Date

EXHIBIT B.1:
Investigative Report, EEO File No. 3362
February 10, 2022

EEO INVESTIGATIVE REPORT

To: Carol Isen, Human Resources Director

Through: Amalia Martinez, Director EEO and Leave Programs, DHR

From: Jennifer Burke, EEO Programs Manager, DHR

EEO File No.: 3362

Complainant: Neil Weingarten, 0932 Manager IV

Respondents: San Francisco Municipal Transportation Agency (SFMTA); Luke Jones, 9163 Transit Operator; Dante King, then-9180 Manager VI; Mary Travis-Allen, then-9180 Manager VI

Issues/Bases: Discrimination and Harassment Due to Race; Failure to Prevent Discrimination and Harassment

Date Complaint Filed: November 19, 2019

Date of Report: February 10, 2023

EEO Investigator Signature

EEO Supervisor Signature

I. INTRODUCTION AND BACKGROUND

From January 7, 2013 until July 10, 2020, complainant Neil Weingarten (Weingarten) worked as an 0932 Manager IV at the San Francisco Municipal Transportation Agency (SFMTA). Until February 2020, Weingarten was the Superintendent of two SFMTA divisions, Islais Creek and Kirkland. From February 2020 to July 2020, Weingarten was the Superintendent of the Flynn Division. On July 11, 2020, Weingarten began working as an 0932 Manager IV at the San Francisco International Airport (AIR).

Respondent Luke Jones (Jones) is a 9163 Transit Operator and union chair of the Islais Creek Division. At all relevant times, respondent Dante King (King), 9180 Manager VI, was the Leader of Cultural Change, Equity, Employee Experience and Engagement, and respondent Mary Travis-Allen (Travis-Allen), 9180 Manager VI, was a Senior Operations Manager – Transit and supervised Weingarten. Travis-Allen is no longer an SFMTA or City and County of San Francisco (City) employee.

II. COMPLAINT AND REMEDY SOUGHT

On November 19, 2019, Weingarten emailed Virginia Harmon (Harmon), SFMTA Equal Employment Opportunity (EEO) Officer, reporting his complaint that King discriminated against him due to his race (██████████) (Exhibit A). The next day, Weingarten forwarded this email to Rebecca L. Sherman, then-EEO Programs Manager at the Department of Human Resources, EEO Division (DHR EEO), stating that he would like to meet with her to provide additional information. (*Id.*). On February 12, 2020, Sherman conducted a telephone interview with Weingarten and his union representative, Criss Romero (Romero), regarding his complaint. (Ex. B, At. 1). Weingarten reported additional concerns regarding King, Jones, and Travis-Allen. (*Id.*)

Weingarten's complaint was initially assigned to Dorothy Young (Young), then-EEO Programs Specialist at DHR EEO. Young conducted additional telephone meetings and exchanged emails with Weingarten and prepared a Charge of Discrimination, which Weingarten signed on December 11, 2020. (Ex. C). Weingarten alleged that Jones and King, who are ██████████ discriminated against and harassed him due to his race, which negatively impacted his ability to manage his divisions and advance his career within SFMTA. (*Id.*). Weingarten further alleged that Travis-Allen failed to prevent Jones and King's discrimination and harassment. (*Id.*)

As a remedy, Weingarten requested that the record be corrected regarding King's statements and comments about Weingarten to others within SFMTA, Jones and King be required to stop spreading rumors and allegations about Weingarten to the rest of the Agency, and Jones and King sign statements recanting the accusations and rumors they made about him. (*Id.*)

Weingarten's complaint was reassigned to Jennifer Burke (Burke), EEO Programs Manager at DHR EEO, who completed the investigation and conducted a follow-up interview with Weingarten on April 20, 2022. (Ex. B, At. 2)

III. ALLEGATIONS REQUIRING FURTHER INVESTIGATION

The allegations included in the Charge of Discrimination were investigated and are the subject of this report. (Ex. C).

IV. THE INVESTIGATION

A. Summary of Interviews

The following witnesses were interviewed as part of the investigation:

1. Anthony Ballester, 9163 Transit Operator
2. Zhuo Ma, 9163 Transit Operator
3. Ify Omokaro, 9179 Manager V
4. Maisha Tawasha, 1426 Senior Clerk Typist
5. Emily Williams, 9179 Manager V

(Ex. E, Attachments 1 through 5).

B. Summary of Documents Reviewed

See Ex. F, Ats. 1-7.

V. FINDINGS OF FACT

A. RELATIONSHIPS BETWEEN PARTIES

1. Interviews with Weingarten

From February 2020 to July 2020, Weingarten worked with Ify Omokaro (Omokaro), 9179 Manager V, at the Flynn Division and they would sit in the break room and talk. Anthony Ballester (Ballester), 9163 Transit Operator, was the Flynn union chair. Weingarten believes he had a good working relationship with every shop steward except Jones, who worked at Islais Creek. Weingarten met King and took one of King's classes prior to the events described in Weingarten's complaint.

2. Witness Interviews

Anthony Ballester:

tarted working at Flynn and they "get along great." Jones is also a union representative. is well

[REDACTED]

Zhuo Ma:

[REDACTED]

Ify Omokaro:

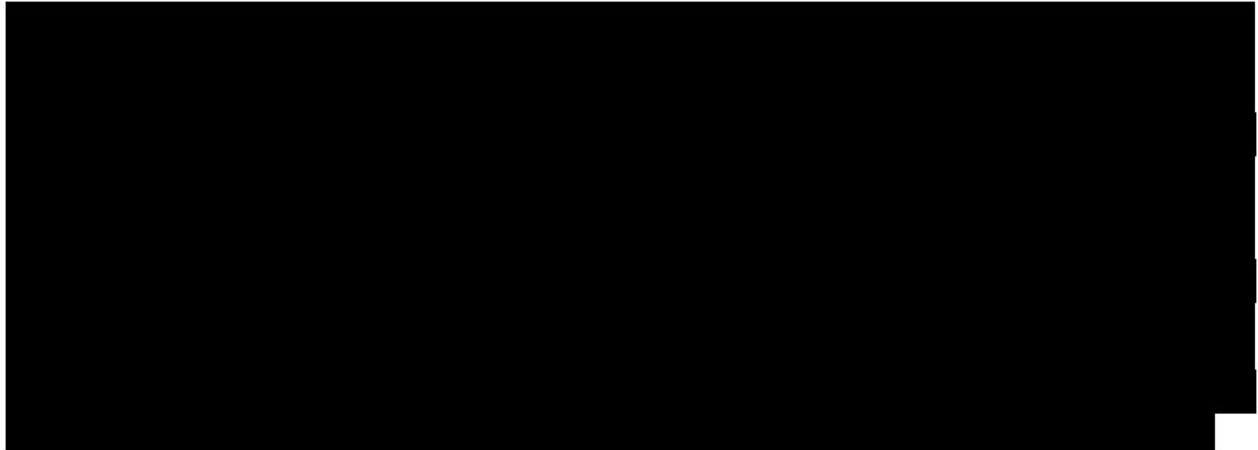
[REDACTED]

Maisha Tawasha:

[REDACTED]

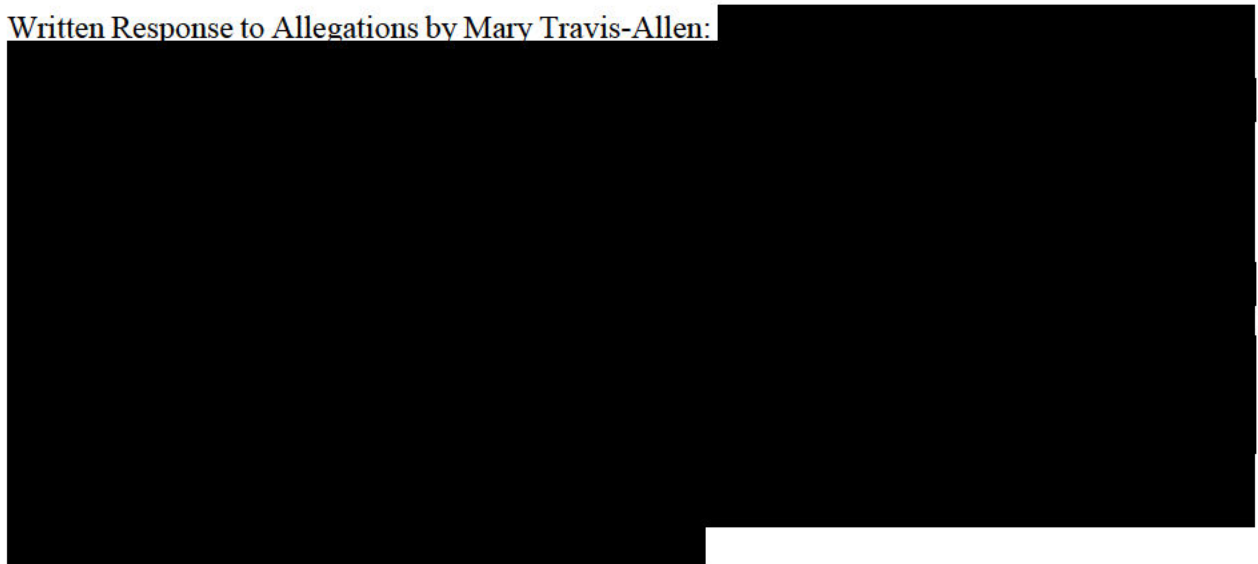
Emily Williams:

[REDACTED]



3. Documentary Evidence

Written Response to Allegations by Mary Travis-Allen:



B. DISCRIMINATION ALLEGATIONS

1. Interviews with Weingarten

November 8, 2019 – Meeting: In November 2019, Jones represented Robbie Levels (Levels), then-9163 Transit Operator, in a disciplinary matter. On November 8, 2019, King invited Weingarten to a meeting, and the calendar invitation was titled “Meeting with Robbie Levels.” To Weingarten, this indicated that the subject of the meeting was Levels’s discipline, which was dismissal from her position. Weingarten believes the meeting was a ruse to speak poorly of him in front of management because King did not request any information on Levels’s discipline. Weingarten; King; Jones; Travis-Allen; Levels; Monica Collins (Collins), then-Acting Assistant Manager; and Emily Williams (Williams), 9179 Manager V, Transit Business & Administration Manager, attended the meeting.

During the meeting, Jones and King commented numerous times that Weingarten was targeting

Levels because she is [REDACTED] Jones and Levels made false statements, and King made no attempt to verify the veracity of these statements during or after the meeting. In addition, King commented on allegations against Weingarten by other Operators, provided his opinion of Weingarten's need for training, and stated that all division managers should have their disciplinary authority removed. Travis-Allen did not defend Weingarten, but Williams affirmed that he properly followed disciplinary guidelines and stated that SFMTA had not been ensuring that all managers were following the guidelines. Weingarten was asked accusatory questions during the meeting that could have led to discipline, but he was not prepared to address these questions or given the opportunity to bring union representation to the meeting.

On November 9, 2019, Weingarten was called to meet with Brent Jones (B. Jones), Acting Chief Transportation Officer, and Rozier. B. Jones reviewed Levels's discipline history and stated that Weingarten's decision to dismiss Levels was correct and he should proceed with the dismissal. B. Jones had previously told Weingarten, "Jones uses racial accusations as a tactic," indicating his awareness that Jones had made such comments and allegations regularly. Weingarten believes he spoke to B. Jones in June 2019 about Jones "using this tactic." Weingarten believes he documented this conversation in an email and stated, "This shows early on [at] Islais Creek."

In addition, during the November 9, 2019 meeting, Rozier made a comment similar to Williams's, stating that other divisions were not closely following the discipline guidelines. B. Jones and Rozier informed Weingarten that he no longer had to communicate or interact with King and that he should continue to follow the procedures and protocols as he had been. B. Jones also stated that division managers and assistant managers no longer have to meet with King.

January 2020 – Step 2 Hearing: In January 2020, when Weingarten participated in Levels's Step 2 disciplinary hearing, Jones and Levels asked that a copy of the determination be sent to King. This made it clear to Weingarten that King wanted to be involved in Levels's case even though he never contacted Weingarten for accurate information and management had confirmed that Weingarten had correctly followed policy. Due to this request, Weingarten believes King and Jones continued to discuss complaints against Weingarten and disparage him as a racist.

January 2020 – Operator Discipline and Subsequent Lawsuit: On January 18, 2020, a *Skelly* hearing was held regarding the termination of another [REDACTED] Islais Creek Operator, Liza Williams, and Jones also represented her. Per the Memorandum of Understanding (MOU) between the Transit Workers Union (TWU) and the City, because the incident involved an injury, another manager conducted the *Skelly* hearing and Weingarten prepared the materials. After arbitration, the termination was reduced to a [REDACTED]. Since then, Liza Williams has sued Weingarten, accusing him of being a racist. Weingarten believes this is further evidence that King and Jones were involved in the lawsuit, communicating about Weingarten and sharing information about him that harmed his reputation and ability to perform his work.

February 2020 – Continued Rumors: On February 22, 2020, all division managers were reassigned, and Weingarten moved to Flynn. Within his first week at Flynn, he heard from Omokaro, then-9172 Manager II, that there were rumors that he is racist against [REDACTED] drivers. Weingarten stated that Ballester "also let me know the rumors were rampant." Weingarten believes these rumors came from Jones and negatively impacted his ability to manage. Omokaro and Ballester were the

only two people who told Weingarten that Jones said that race and racism played a role in his disciplinary decisions.

Impact on Weingarten's Ability to Manage: Jones and King's conduct affected Weingarten's ability to manage by causing him to walk on eggshells and be concerned every time he had a disciplinary meeting that "accusations" would come from it. When Weingarten was finishing his time at Islais Creek and Kirkland, it was "impossible to manage" because people discussed every move he made and made assumptions. He noted that there were two Operators who had been placed on non-driving status by another manger; however, these Operators only filed EEO complaints against Weingarten and not the other manager.

Weingarten did not request any special projects or assignments or apply for any promotional opportunities in 2019 or 2020. He felt "stifled" at SFMTA because he "wasn't going to be able to go up and have the ability to make change." In June or July 2019, he applied to another position at the Airport, which "took forever to go through." He decided to apply to other jobs because he "couldn't be effective as a leader." When Weingarten moved to the Airport as a Manager IV, it was a lateral move and he received the same pay.

2. Witness Interviews

Ballester:

[REDACTED]

Ma:

[REDACTED]

Omokaro:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tawasha:

[REDACTED]

Williams:

[REDACTED]

3. Documentary Evidence

Written Response to Allegations by Mary Travis-Allen:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Email from King to Brent Jones and Kirschbaum re: Robbie Levels: On November 11, 2019, King emailed B. Jones and Kirschbaum following up on the November 8, 2019 meeting. (Ex. F, At. 2). King advocated on Levels's behalf, requesting that management rescind Levels's suspension and issue her a written warning. (*Id.*). King concluded, "... there seems to be a significant opportunity to revisit how Transit is evaluating performance related matters that leads to discipline, rendering final decisions about discipline, as well as who is impacted by disciplinary actions most severely." (*Id.*) (emphasis in original).

Emails re: The Other Pandemic: On May 29, 2020, King sent SFMTA employees an email with the subject line "The Other Pandemic" regarding "the pandemic of White Supremacy and Anti- [REDACTED]" (Ex. F, At. 3). On May 29, 2020, Jones forwarded the email to several other SFMTA employees, TWU employees, and Samantha Levels [REDACTED], copying Weingarten, Kirschbaum, and Robert Gainer. (*Id.*). On June 2, 2020, Samantha Levels replied all, stating, "This email Needs to be forwarded to Gavin Newsom an London Breed concerning they employee that works for the City of San Francisco By the name of Neil Weingarten he is Racist please check his file at the EEO office of complaints [sic]" (Ex. F, At. 4). On June 2, 2020, Weingarten submitted this email thread in support of his complaint, stating, "... the challenges we have previously discussed continue to persist and have severe and pervasive impacts on my ability to manage. (*Id.*). Weingarten did not know whether Samantha Levels is or is related to Robbie Levels.

Emails re Conflict in AM Yard Starter Position: On August 29, 2019, Kirkland Division Operator [REDACTED] a [REDACTED] [REDACTED] emailed Weingarten, King, Travis-Allen, and others alleging race and gender discrimination by Weingarten and the Lead Dispatcher. (Ex. F, At. 5).

Email re: Neil Weingarten from King to King: On August 14, 2019, King emailed himself notes regarding information he shared with Harmon regarding Weingarten. (Ex. F, At. 6). King wrote that Weingarten had "[i]ssues dealing with [REDACTED] operators; look at all options dealing with him" and "[h]as had issues at several divisions and successors and predecessors have not had the same problems." (*Id.*).

C. HARASSMENT ALLEGATIONS

1. Interviews with Weingarten

During the November 8, 2019, meeting, Jones accused Weingarten of being racist against [REDACTED] drivers and said, “You treat [REDACTED] people like slaves.” Jones has represented Operators in hearings and made comments about Weingarten to others. Weingarten believes that Jones has raised allegations of race and racism playing a role in his disciplinary decisions, even though SFMTA Employee and Labor Relations has confirmed multiple times that his decisions are made entirely based on SFMTA Rules and Regulations. Weingarten believes Jones spread this information because he and King indicated that there are more complaints lined up against Weingarten for racism, and because Weingarten had already been interviewed for related allegations. Weingarten felt singled out based on his race. These comments impacted his ability to manage, especially when made in front of his subordinates. Weingarten believes Jones’s comments and conduct harmed his reputation and career opportunities within SFMTA.

Weingarten did not recall when Jones began disparaging him to others. He noted, “I was only at Islais Creek for 1.5 years.” During this time, Weingarten denied bereavement leave to a [REDACTED] Operator because the Operator did not provide documentation demonstrating that he was the nephew of the decedent, as he claimed to be. However, Jones, who was the Operator’s union representative, accused Weingarten of denying the Operator’s bereavement leave due to his race.

Weingarten believes the “very first EEO matter at MTA” occurred in 2018 or 2019 when he was at Islais Creek or Kirkland. Then, all of the sudden,” he started to get more complaints against him while he was at Islais Creek. Weingarten believes that Jones “had a lot to do with that,” and Jones was motivated by the issue with Weingarten’s denial of the Operator’s bereavement leave. Weingarten stated that B. Jones told him that he felt Jones was “using race as a tactic for me.” Weingarten also stated, “[E]very leader will have some of these accusations and it runs rampant at MTA. But this happened with exponential levels with Dante and Luke.”

2. Witness Interviews

No witness heard Jones state, “You treat [REDACTED] people like slaves.”

Ballester: [REDACTED]

Omokaro: [REDACTED]

Williams: [REDACTED]

3. Documentary Evidence

Written Response to Allegations by Mary Travis-Allen: [REDACTED]

Emails re: Operator [REDACTED] Request for Bereavement Leave: Weingarten provided an email thread from February 19, 2019 regarding his denial of Operator [REDACTED] bereavement leave. (Ex. F, At. 7). The thread began with an email from Terrence Hall of the TWU asking why Weingarten denied the leave. (*Id.*). Rozier asked Weingarten why he denied the leave, and Weingarten replied that [REDACTED] was not among the family members listed in the funeral document he provided. (*Id.*). Rozier emailed Kirschbaum, Travis-Allen, and Weingarten stating that she supported Weingarten's determination and noting that "the operator along with the division Chair [sic] got angry and raised their voice at Neil. Accusing him of discrimination ... [sic]" (*Id.*).

D. FAILURE TO REPORT ALLEGATIONS

1. Interviews with Weingarten

On November 8, 2019, Travis-Allen heard Jones and King make false allegations about Weingarten but did not speak up or address them. On November 9, 2019, Travis-Allen was present when B. Jones and Rozier affirmed that his disciplinary decisions were based on proper procedure. At the time, Travis-Allen was told that she was at fault for not ensuring that other managers followed disciplinary procedures as closely as Weingarten did, and her only response was to smile. Travis-Allen never did anything regarding the harassment and discrimination Weingarten experienced.

2. Documentary Evidence

Written Response to Allegations by Mary Travis-Allen: [REDACTED]



VI. CREDIBILITY ANALYSIS

A. Weingarten's Credibility

The investigation revealed some concerns regarding Weingarten's credibility. Weingarten made his complaint after numerous EEO complaints had been made against him regarding his discipline and treatment of █████ employees. Though SFMTA management had concluded that he had followed SFMTA guidelines in disciplining employees, he nevertheless had a motive to shield himself from these allegations by making the present complaint. In addition, for the most part, as discussed below, witnesses did not corroborate his allegations.

B. Travis-Allen's Credibility

The investigation did not reveal concerns regarding Travis-Allen's credibility. Travis-Allen submitted a lengthy written response to Weingarten's allegations after her retirement. The response was internally consistent and consistent with witness testimony and documentation reviewed in the investigation. Travis-Allen did not have a motive to lie because she is no longer an SFMTA employee and not subject to any discipline.

C. Witnesses' Credibility

The investigation did not reveal concerns about the witnesses' credibility.

VII. DISCRIMINATION CLAIM ANALYSIS

To sustain a claim of discrimination in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant is a member of a protected category; (2) the complainant suffered an adverse employment action; and (3) there is a causal link between the protected category and the adverse employment action. An adverse employment action is any objectively material adverse action affecting the terms, conditions or privileges of employment. Actions considered materially adverse are those that impair a reasonable employee's job performance or prospects for advancement. To be material, the employment change, impairment, or injury must be more disruptive than a mere inconvenience or an alteration of job responsibilities. Instead, it must be both determinantal and substantial.

Weingarten alleged that two █████ employees, King and Jones, discriminated against him due to his race (█████) by meeting with him to object to his proposed termination of another █████ employee, Levels; disparaging him during the meeting and at other times to others at SFMTA; and participating in a lawsuit against him brought by another █████ Operator, Liza Williams. Weingarten alleged that King and Jones's conduct adversely impacted his ability to manage his division and harmed his career. Weingarten is a member of a protected category based on his race; however, the investigation did not substantiate his allegations that the conduct occurred as he alleged, that he suffered an adverse employment action, or that any of King and Jones's alleged conduct was done on account of his race.

November 8, 2019 – Meeting: Weingarten alleged that King held a meeting about Levels’s discipline in an attempt to disparage Weingarten in the presence of other managers and to get Weingarten disciplined. The investigation established that King was entitled to request a meeting with Weingarten and other managers to address Levels’s concern that she was being unfairly disciplined due to her race. According to Travis-Allen and Williams, King’s role was to address EEO concerns within SFMTA. According to Williams, King felt that “[REDACTED] are disciplined more harshly than others,” and SFMTA’s “numbers do show that.” Travis-Allen wrote that King had authored a report, based on data provided from SFMTA Human Resources, concluding that “[REDACTED] “were disciplined at a higher percentage than all other ethnic groups.” King’s report also stated that Weingarten was “the Manager with the highest discipline, particularly on [REDACTED] Transit Operators.”

The investigation revealed no information that Weingarten was actually required to attend the meeting or that he was prevented from seeking more information from King or others before attending. [REDACTED]

During the meeting, Jones and King were entitled to make discrimination complaints and to oppose conduct they in good faith believed to be discriminatory, and the investigation supported their reasonable, good faith belief that Weingarten treated [REDACTED] Operators unfairly. The investigation revealed no information demonstrating that Jones and King were motivated by Weingarten’s race, but rather their view of his treatment of [REDACTED] employees. Witnesses stated that there was a perception within SFMTA that Weingarten disciplined Black employees at a disproportionately higher rate than others. [REDACTED]

Though Weingarten alleged King commented on other Operators’ allegations, opined on Weingarten’s need for training, and stated that all division managers should have their disciplinary authority removed, [REDACTED] did not corroborate this claim.

Weingarten did not identify any of the “accusatory questions” that could have led to discipline that were asked of him during the meeting. Moreover, [REDACTED]

[REDACTED] Indeed, Weingarten did not allege he was disciplined as a result of the meeting, and, in fact, he was not disciplined.

Finally, Weingarten's participation in the meeting is not an adverse employment action. As a Manager IV, Weingarten's job duties included meeting with staff to identify and resolve problems or conflicts, and dealing with employee complaints, grievances, and criticism of his managerial decisions is an expected part of the role.

January 2020 – Step 2 Hearing: Weingarten alleged that Jones and Levels asked that a copy of the Step 2 determination letter be sent to King, which demonstrated that King and Jones continued to discuss complaints against Weingarten and disparage him as a racist. The investigation established that it was appropriate for King, in his role as Leader of Cultural Change, Equity, Employee Experience and Engagement, and Jones, in his role as union representative, to discuss employees' complaints against Weingarten. The investigation established that no witness heard King call Weingarten a racist, and only one witness, [REDACTED] "is pretty sure" he heard Jones call Weingarten a racist at some point, though it is unclear whether this was after the November meeting regarding Levels. Nevertheless, as discussed above, King and Jones were entitled to oppose what they reasonably perceived to be race-based discrimination, and this is not an adverse employment action. Likewise, Levels and her union representative, Jones, were entitled to ask that the determination letter be sent to anyone Levels wished, and asking that it be sent to King is not an adverse employment action because it had no impact on his employment. Finally, even if Jones did call Weingarten a racist at some point, the investigation established that he would have done so not because Weingarten is [REDACTED] but because he believed Weingarten engaged in racial discrimination.

January 2020 – Operator Discipline and Subsequent Lawsuit: Weingarten alleged that Jones and King participated in Liza Williams's race discrimination lawsuit against him, which harmed his reputation and ability to perform his work. However, Operators are entitled to bring discrimination lawsuits, and being sued is not an adverse employment action because the complaint was filed by an Operator acting in her private capacity and not on behalf of the SFMTA, and thus the lawsuit did not affect the terms, conditions, or privileges of Weingarten's employment. Moreover, Weingarten did not provide any information supporting his speculation that King and Jones participated in Williams's lawsuit, and even if they had, they are entitled to do so and could have even been compelled to do so as part of the legal process, making their participation a protected activity as well.

February 2020 – Continued Rumors: Weingarten alleged that Omokaro and Ballester informed him that Jones continued to spread rumors that he is racist against [REDACTED] people and used race as a factor in his disciplinary decisions. The investigation did not corroborate this claim. [REDACTED]

[REDACTED] Moreover, as with the previous allegations, even if Jones did claim that Weingarten is racist who unfairly disciplined [REDACTED] employees, this is a protected activity, and the investigation established that under the circumstances, it was reasonable for Jones to believe that Weingarten's disciplinary decisions were racially motivated.

Impact on Weingarten's Ability to Manage and Career: Weingarten alleged that the November 8, 2019 meeting and subsequent events in January and February 2020 negatively impacted his ability to perform his managerial duties and harmed his career at SFMTA. However, the investigation did

not substantiate these claims. No witness corroborated Weingarten's claim that allegations of racism affected his ability to manage. [REDACTED]

Witnesses stated consistently with each other that, if anything, Weingarten's own managerial style was the cause of any problems he had as a manager. [REDACTED]

Weingarten's own testimony demonstrated that despite these issues, he had the support of upper management, further undermining his claim. Weingarten stated that B. Jones and Rozier both supported his decision regarding Levels and instructed him to proceed with her dismissal, told him that managers and assistant managers no longer had to meet with King, and said he should continue following SFMTA procedures and protocols as he had been. In February 2019, Rozier also previously supported Weingarten's decision to deny Operator [REDACTED] bereavement leave.

The investigation revealed no evidence to support Weingarten's claim that Jones and King harmed Weingarten's prospects for advancement within SFMTA or his career. Weingarten acknowledged that he did not request any special projects or assignments within SFMTA in 2019 or 2020, nor did he apply for any promotional opportunities during that timeframe. Moreover, in June or July 2019 – well before the events described in his complaint – Weingarten applied to another position at AIR. Ultimately, in July 2020, Weingarten was hired as a Manager IV at AIR, where he received the same pay as he had at SFMTA.

To support his claim that King and Jones's conduct impacted his ability to manage, Weingarten submitted a June 2, 2020 email demonstrating that Jones forwarded King's email regarding white supremacy and anti-[REDACTED] to Samantha Levels, who, in turn replied to the email and accused Weingarten of being a racist. However, Weingarten did not explain how this email, sent from someone outside SFMTA from a private email address, impacted his ability to manage, particularly when he had already planned to leave SFMTA for AIR and was only at SFMTA for approximately five more weeks.

Based on the foregoing, there is insufficient evidence to establish that King and Jones discriminated against Weingarten due to his race.

VIII. HARASSMENT CLAIM ANALYSIS

To sustain a claim of harassment in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant was subjected to physical, verbal, or visual conduct on account of the complainant's membership in a protected category; and (2) the conduct was unwelcome.

Weingarten alleged that Jones harassed him due to his race by commenting, "You treat [REDACTED] people like slaves," and Jones and King harassed him by spreading rumors that he is racist. Weingarten is a member of a protected category based on his race; however, the investigation did not corroborate this claim. First, no witness heard Jones make the alleged comment. Second, the investigation also did not corroborate Weingarten's claim that Jones and King accused Weingarten of racism because Weingarten is [REDACTED]. A statement that Weingarten is "racist" is facially not a race-based comment and is not related to Weingarten's race. Moreover, though Weingarten did not welcome the accusations that he is racist, Jones and King's opposition to conduct they reasonably believed to be discriminatory is protected by the SFMTA's EEO Policy and is not harassment. Accordingly, there is insufficient evidence to establish that King and Jones harassed Weingarten due to his race.

IX. FAILURE TO REPORT CLAIM ANALYSIS

To sustain a complaint of failure to prevent in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant was subjected to harassment/discrimination; (2) the department/City failed to take all reasonable steps necessary to prevent harassment/discrimination; and (3) the failure caused the complainant harm.

Weingarten alleged that during the November 8, 2019 meeting, Travis-Allen heard Jones and King make false allegations against him but did not speak up or address them, and did not address Jones and King's discrimination against and harassment of him. [REDACTED]

[REDACTED] As discussed above, Jones and King were entitled to object to Weingarten's disciplinary decisions, which they reasonably believed to be discriminatory, and the investigation did not reveal any information supporting Weingarten's claim that Jones and King targeted him due to his race. Accordingly, there is insufficient evidence to establish that Travis-Allen or SFMTA failed to prevent, report, or otherwise address discrimination and harassment.

X. CONCLUSION AND REQUIRED RESOLUTION

Based on the foregoing, the investigation did not substantiate Weingarten's allegations. SFMTA should be informed of this determination.

XI. ATTACHMENTS TO THE REPORT

Attached to this report are the following exhibits:

Exhibit A: E-mail from Neil Weingarten Reporting Complaint

Exhibit B: Interviews with Weingarten

Attachment 1: Intake Interview Notes

Attachment 2: Follow-Up Interview Notes

Exhibit C: Charge of Discrimination

Exhibit D: SFMTA's Response to Request for Information

Exhibit E: Summary of Investigative Interviews

Attachment 1: Anthony Ballester, 9163 Transit Operator

Attachment 2: Zhuo Ma, 9163 Transit Operator

Attachment 3: Ify Omokaro, 9179 Manager V

Attachment 4: Maisha Tawasha, 1426 Senior Clerk Typist

Attachment 5: Emily Williams, 9179 Manager V

Exhibit F: Documents Reviewed

Attachment 1: Response to Allegations by Mary Travis-Allen

Attachment 2: E-mail from Dante King re: Robbie Levels

Attachment 3: E-mail from Dante King re: The Other Pandemic

Attachment 4: E-mails from Neil Weingarten, Luke Jones, and Samantha Levels re: The Other Pandemic

Attachment 5: E-mails from [REDACTED] and Dante King re: Conflict in AM Yard Starter Position

Attachment 6: E-mail from Dante King re: Neil Weingarten

Attachment 7: E-mail from Neil Weingarten re: Bereavement Issue

EXHIBIT A

E-mail from Neil Weingarten Reporting Complaint

Sherman, Rebecca (HRD)

From: Sherman, Rebecca (HRD)
Sent: Wednesday, November 20, 2019 8:17 PM
To: Weingarten, Neil (MTA)
Cc: Harmon, Virginia (MTA); criss@sfmea.com
Subject: RE: EEO Concern

Categories: SFMTA EEO

Hi Neil:

Thank you for your email. We can absolutely schedule a meeting when you return. I will actually be out of the office 12/2 through 12/4, returning on 12/5. I'll give you a call on 12/5 and we can coordinate schedules, but in the meantime, I am going to hold 9:00-11:00AM on Friday 12/6 on my calendar.

Safe travels,



Connecting People with Purpose

Rebecca L. Sherman, EEO Programs Manager
(She, Her, Hers)
Department of Human Resources
One South Van Ness Ave., 4th Floor
San Francisco, CA 94103
Phone: (415) 551-8950
Website: www.sfdhr.org

From: Weingarten, Neil [mailto:Neil.Weingarten@sfmta.com]
Sent: Wednesday, November 20, 2019 8:01 PM
To: Sherman, Rebecca (HRD)
Cc: Harmon, Virginia (MTA); criss@sfmea.com
Subject: Fw: EEO Concern

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Rebecca:

The email below was sent to Virginia Harmon yesterday. Virginia has informed me that EEO concerns from the SFMTA are being investigated by DHR and furnished me with your contact information. I will be out of the office until 12/2/19 so, I wanted to provide you with the information below, before leaving the country. Upon my return, I would like to schedule a meeting to provide you with additional information.

Regards,
Neil Weingarten

Division Manager
Kirkland & Islais Creek Divisions

From: Weingarten, Neil
Sent: Tuesday, November 19, 2019 3:11 PM
To: Harmon, Virginia <Virginia.Harmon@sfmta.com>
Cc: criss@sfmea.com <criss@sfmea.com>
Subject: EEO Concern

Dear Virginia:

I was invited to a meeting on Friday, 11/8/19 by Dante King. Islais Creek Operator Robbie Levels had apparently requested “a meeting with management”. The participants of the meeting were me, Dante King, Operator Robbie Levels, Islais Creek Union Chair Luke Jones, Former Acting Assistant Manager Monica Collins, Mary Travis-Allen, & Emily Williams. I received the meeting invitation but was provided no context about the subject matter. Dante admitted, in the meeting, he had several conversations with Operator Levels in preparation for the meeting. This left me at a significant disadvantage because I believe his opinions were predetermined since he did not contact me prior to the meeting.

As the only [REDACTED] Division Manager, I believe I was an easy target for this discriminant attack on my work based solely on my protected category. The accusations against me have no merit and it was very disconcerting to have this opinion about me discussed with employees I supervise.

Throughout the meeting references were made about the distribution of discipline at the SFMTA. The assumption was presented that Operator Levels must be a victim of the same seemingly targeted discipline based on race. Dante also made statements about allegations made by other Operators, towards me, and proceeded to provide his opinion of my training needs while two of my employees were in attendance. Additionally, he stated that all Division Managers should have their disciplinary authority removed.

I feel that from the onset of the meeting my integrity was questioned. It was further perpetuated with Dante’s request for documentation from me; but, the acceptance of the Operator at her word. This is the same Operator who is spreading word around our division that she is going to “run me out.” This information should at least bring the honesty and motivation of Operators Levels and Jones into question.

Afterwards, Dante thanked me for my demeanor during the meeting. I appreciated this sentiment, but I left the building feeling affronted and demeaned. All employees need respect in the workplace and the comments and perceptions he presented, with subordinate employees in attendance, may have lasting effects at the division level.

In conclusion, Dante directed an abundance of commentary and concerns about his perception of the treatment of [REDACTED] Operators at the SFMTA towards me. Dante King used this meeting as a platform to single me out, based on race; and, his comments have severe and pervasive impacts on my ability to manage.

Please contact me at your earliest convenience and I will provide additional details.

Regards,
Neil Weingarten

Division Manager
Kirkland & Islais Creek Divisions
415-542-6388

EXHIBIT B, Attachment 1

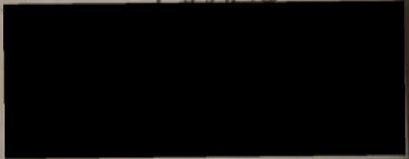
Weingarten Intake Interview Notes

12/12/19

MTG W/ NN & PEP.

- Rec'd email notice from Dante requested by a transit operator
- Had been dealing w/ 4 MISSOITS (5 but pulled one) - Robine

MISSOITS & ANOL IN MOV - ~~3rd~~ up to 5 days
 4th up to 10 days



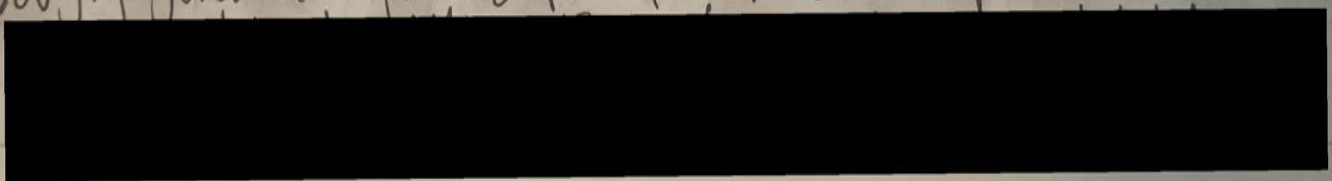
- Robine had [redacted] - 15/16 working days
- Issue w/ no relief - in convo w/ TMC -
- Failed to notify TMC had ADA passenger refused to get off - ^{move to yard}

MTG w/ Robine & Union rep scheduled; during scheduled Mtg time - in breakroom writing grievance -

MTG scheduled RE [redacted]

Grievance - step II; ELP pulls grievance - sends to EEO

sought guidance from ELP - told issue discipline.



- Rec'd request from Dante - to Mt. Allen; Monica Collins; & E. Williams attend.

- Mtg w/ Led a / Mt Allen about totality - [redacted]

- Union Chair - Luke Jones - tells NW ^{make peo} being treated like he treats [redacted] people like slaves

- Bereavement leave; NW denied & led a investigated

Mary & Brent call NW - asks him ab 5-6 letters

Luke has been known to make accusations
raising ongoing/allegations of issues of denying
time off

Dante said - we have more claims against you.
I'm hearing the verbiage you're using

Monica states she was responsible for 1 day
suspension

NW says that all of this is happening bc NW follows
guidelines - which are specified.

Dante hasn't ever asked NW about decision-making ^{didn't} ^{listen}
All these comments are being made in front of employees

Member of night ranked making these comments.

left

CAIT called to Brent Jones' office - asked NW to bring Roddie's
file & how they got there. Reviewed everything w/ Brent
NW affirmed

Moved forward w/ term - notified on Tuesday.

Dante's starts make ~~st~~ starts

wants → Dante can't call/hold those mtgs
- NO BASIS IN FACT
- NO request for info from NW

NW following rules
Dante calling in others?

DATE NO. TTT
Mike Jones, 9163 transit operators, union rep
middle stmts made to others re NW

Dante's Role - Not sure what his role is

-
1. For allegations vs ~~the~~ NW, trust process
 2. Refs to Dept.

MT Allen - concerns about retaliation

NW, Leda, MTA, Brent @ next day mtg

EXHIBIT B, Attachment 2

Weingarten Follow-Up Interview Notes

Weingarten Follow-Up Questions

Hi Neil, is this still a good time to talk? Great, thanks for meeting today. As I said in the email, I wanted to discuss your complaint in a bit more detail in order to help me identify potential witnesses to interview and be able to conduct a thorough investigation of your claims. 11am – 12:11 p.m.

1. Identity of Flynn Operator who was cc'ed Jones

<p>In your signed charge of discrimination, you alleged that Jones was copied on an email from a Flynn operator, even though Jones does not work at Flynn. Was this in reference to the June 2020 email from Samantha Levels?</p>	<p>Um, I believe it was. I found a copy of the email. Is that accurate.</p> <p>Yes, if my memory serves me right, Samatha Levels.</p> <p>So the other person that is on here, Samanthat Levels, I don't know if that is Robbie Levels. She was an Islais Creek.</p> <p><u>Anthony Ballester</u>, Flynn Chair. He was union chair over at Flynn. He also let me know the rumors were rampant. 9163 Transit Operator. He was also union.</p>
<p>If not, can you clarify what this was in reference to?</p>	

2. Harassment and Potential Witnesses

<p>You identified that others have told you that Luke said that race and racism play a role in your disciplinary decisions. Can you identify those individuals for me? Anyone else?</p>	<p>You can check on Iffy Omokaro. He was my assistant mgr when I got to Flynn. Luke would sit in the break room and have those conversations.</p> <p>I have a weird side note to all these things, last night I got a LinkedIn request from SFMTA supervisor. Didn't remember knowing them, the first thing on the LinkedIn was a message from Dante King.</p> <p>SFMTA supervisor, so I pulled them on their LinkedIn was from Dante King. Early 1900s a hanging and threw me. Didn't accept the person's request.</p> <p>Person: I can tell you. Patricia Johnson.</p>
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	<p>Anyone else: Um, those are the two off the top of my head. And anyone who sat in on the meeting that we had.</p> <p>I am curious if there was conversation in my complaint or charge it is obvious that I was being sued as well. That employee was an Islais Creek operator.</p> <p>Liza Williams. Lawsuit. Case she brought against me was dismissed by the court. When: lawsuit is against the City is ongoing. I was notified dealing with the lawsuit for 1.5 years, still working at MTA. 2020. Thrown out when: Couple of months ago. 2022. End of 2021.</p>
<p>Can you tell me when you believe Luke began disparaging you to others—like, when to the best of your knowledge did this start? And why do you think that date/time frame?</p> <p>When and where were you working at the time?</p>	<p>When: I don't remember the date. Only at Islais Creek for 1.5 years.</p> <p>Incident in my office and had an operator for bereavement pay, they have to bring in some type of documentation. Program in. The program was an uncle who had passed away. The documentation and the nieces and nephews were listed, but this person wasn't on there. I asked for additional documentation. And Luke accused making that call on race. That seemed to be the start. I think it was motivated that Luke had been AWOL and I held him accountable like other and that seemed motivated by the claims.</p> <p>Will get the anem.</p> <p>Super at Islais Creek. Luke was present with this employee.</p> <p>Normal for Union Rep to complain and Luke came marching back in with the oOperator. I really felt this was perpetuated, because I was holding him accountable and he was a bully. This was a whole new tactic. (It is unusual. If we had a member to go in with a bereavement request, that is unusual.) That Luke is a Steward and not a rep. So, a Labor Rep is hired by the union. Criss a Rep, I'm on payroll. A steward is an employee to help enforce the contract, contractual violations, negotatie a solution. They can't engage the employee using attonryes with ficdicuary.</p>

	<p>Supposed to be elected. One is on payroll and one is a voluntary.</p> <p>Steward acting in a Union role: MEA doesn't have Steward, the union and it is in their contract and union sends shop steward names. That's how their notified. Now, sometimes it doesn't happen, but it is supposed. People will now, I'm sure said Luke is the shop steward. No reason to believe that's not the case. It would be a given that he was acting as a Steward. When he's acting as a steward, legal responsibilities of the union. If he's disparaging, then the union will hold that liable. So it is important orle, but you have renegade people, thought he was doing the right thing. MT 250A.</p> <p>Luke was removed the shop steward due to allegations, making allegations like this toward the Pres/VP of in charge of union. Making race-based allegations against union itself. I was told. Who told you: I may have to chew. Quite some time ago.</p> <p>I spoke Brent Jones about it. Brent felt Luke was using race as a tactic for me. I could file an EEO complaint, which I eventually did.</p> <p>When at Islais Creek: I may have to get that for you. ??? until Feb 2020.</p> <p>Monica Collis worked with me as an Asst. Superintendent., she'd be great to talk to.</p> <p>The majority of those complaints started at Islais Creek, I had a couple over 5 plus years. And then all of the sudden Islais Creek for a while. I think Luke had a lot to do with that.</p> <p>Candidly: I don't know if this is the CAT who is the case, and Dante King's. CAT: Matthew Yan.</p>
<p>You identified that Jones disparaged you to other Operators. Can you identify any potential witnesses for DHR EEO to interview that you think could attest to the fact that Jones disparaged you to others?</p>	

<p>When was Jones at Flynn? Operators at Flynn?</p>	<p>I would say that the other witnesses could say who.</p> <p>Anthony realized how inappropriate it was. Because I had a good work relationship with every shop steward, except Luke. When I first started at Woods Division, I have heard he passed away that helped show me the ropes. When I got to Kirkland, the shop steward would be phenomenal. Anthony was great to work with, you don't always get along. Siegfired Henderson was at Woods. He was ill, might have passed away. Helped show me the ropes.</p> <p>Zhuo Ma. Kirkland, shop stewards. Zhuo. He used to yell at me and I used to reverse them. Zhuo.</p>
<p>Where does Jones work now?</p>	<p>Flynn, no he's at still at Islais Creek.</p> <p>Vice Chair at Flynn before he was appointed Chiar or Steward or Islais Creeek.</p> <p>What's even more amazing Islais Creek. He struggled writing grievances, any time off is an automatic grievance. He was struggling to grievance, you get a grievance letter and violations committed and listed in Skelly letter, you gotta put what I did wrong. And then I'd respond to the letter.</p>

3. Ability to Manage

<p>Can you tell me in greater specificity about how Luke and Dante's alleged conduct affected your ability to manage?</p> <p>Examples of management difficulties?</p> <p>Did you talk about these management difficulties with anyone? Who?</p> <p>Witnesses who would be able to attest to these management difficulties or the facts you're alleging?</p>	<p>You walked on eggshells. Every meeting you had, you were waiting for the accusations to come from it. Any time the bereavement, didn't match, the accusations followed.</p> <p>Terrance Hall, send them to Julie and Mary Travis and have to explain why I asked for more information. Nobody was ever denied time off, just how you were paid. There is a separate batch of money that doesn't count toward their sick or vacation. When I have a fiscal responsibility and Luke would immediately send this. Didn't make sense, like you gave me 3 months ago, but then I get 3 months later, that's sme doing due dilligence. Luke would attack</p>
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	<p>this. You waited for the other shoe to drop, horrible way to live and manage.</p> <p>Criss asks for caucus.</p> <p>Did Luke send email to: yes. And Brent Jones. Would you send me the email chain, I can try. MTA download email and I don't have everything. I might even have paper copies. I think we have for the lawsuit.</p> <p>Continuing on: I felt there were employees at Flynn that probably challenged me without this cloud hanging over them. I'm scared. Little things like Iffy could get the name, he worked at Flynn much longer than I did. We had an individual who demanded to be placed in an admin role and 5-6 people and kept everyone fresh and fair, drive and then work as an admin. Weren't the most senior person, they were demanding to be placed. I had this woman screaming against me and saying I was retaliating against her. I said "what did you do?" I said if I'm retaliating, she didn't have an answer. She was just yelling. Put together, maybe she got the verbal cues, I never disciplined her for screaming at me, I wasn't going to be strong armed and extremely difficult to manage, cloud over you for something you did. When: Don't recall, tenure at Flynn. Who: I don't recall, I think Iffy or Anthony and could go through with Anthony and he'd let me know everything is fine. Anthony walked her into my office and she was yelling and Anthony was giving me a look. I'm interpreting her look, he was sorry. They didn't go badly, I made the call this is how we're going to move forward.</p> <p>Flynn Feb to July 2020.</p> <p>I was trying to come to that airport, not there long.</p>
<p>You identified the Nov 2019 meeting with Robbie Levels and that Jones disparaged you in front of Monica Collins, Marty Travis-Allen, and Emily Williams. Can you identify any future conduct</p>	<p>Anything else: I think the meeting with Luke and Dante King was the ultimate of that. Title of meeting is meeting with Robbie Levels. Would like to meet with mgmt. to discuss concerns. That's all that said about meeting. And it is</p>

<p>from those individuals that you believe to be related to Jones' comments?</p> <p>Any other opportunities you believe you were denied or not considered for in relate to Luke or Dante's conduct?</p> <p>If so, who was the decision maker?</p> <p>Why do you believe this opportunity was related to Luke or Dante's conduct? How so?</p>	<p>nothing but a character assisination. I'm being accused and</p> <p>No follow up an obliteration of me. He believes the entire Mgmt of Operations should be releivedd of authority to discipline. I would still and thought about it. I 'd have nightmares about this, insane experience.</p> <p>Brent Jones called me and said bring Robbie Levels file with you. So I showed up over there, with backpack and didn't drop it and weight of backpack fall and he's like "what in the world are you carrying?" I said that's her file. 3 volumes. Only reason was the 4th volume in storage. Batch of files in division and outside division. And we went through this issue. Me, Leda, Mary, and Brent and went through what happened the previous day.</p> <p>Brent told any managers to meet with Dante and Leda and Mary should meet with Dante. At the end of the meeting, I was supposed to act and proceed with disciplinary matter at hand. She went home, not first thing in her file, 4 volumes.</p> <p>So when you're looking for a scenario, this meeting.</p>
<p>Did you request any special projects or assignments in 2019? 2020?</p> <p>What? Given/granted or not? Decision maker?</p> <p>Do you think this was related to Luke or Dante's conduct?</p> <p>Why do you say so?</p>	<p>Well, looking for, we have this email that came to Dante and forwaded, including Robbie Levels and Mayor Breed because I'm a racist. I think I even comment that this email went to me and Julie Kirschbaum. I questioned what his motive was there.</p> <p>But as far as other individuals, evne when I was finishing at Islais Creek and Kirkland, impossible to manage. <u>Monica Collins</u>, she was Asst. Manager at Islais Creek, she would talk me down. Every move you make, discussing this topics. Making assumptions, they were housing themselves in his office.</p>

	<p>I know that [REDACTED] and I can't remember the other gentleman's name. But both of these individuals were on the couch, non-driving status for months on end, because the Mgr of SFMTA Trainign dpet deemed they were unfit to drive MTA vehicles. They didn't file an EEO complaint against him, they filed it against me, I was the paper pusher because. Paper pusher: They report to me, they were deemed, I had to do the Skelly, rep at Step 2. I went into head of HR. MTA HR. I marched into his office prior to Stpe 3 meeting, if you don't get Ken Anderson in here, I'm out. I'm not the bad guy, I just did the paperwork. I didn't deem them unfit to drive. What triggered: There wasn't a clear cut policy, youhad two individuals who were displaying bad behavior and no responsibility. Ken Anderson said they couldn't go back out. Nobody filed an EEO complaint against me. Driving violations, MTA have commercial drivers lics, held to a different protocol. The police could site the other person but ou could be held accountable by rules of MTA. The Superintendent we didn't have the discretion to deem these were avoidable. Early on, we could change a determination, I did it once in Woods and never did it again. We have safety specialists, I'm not trained to be an Operator. Some of my colleagues would do, I didn't do it. I left that in hands of pro</p>
<p>Did you apply for any promotional opportunities in 2019? 2020?</p> <p>Denied any?</p>	<p>Here's how I can wrap this up for you. Someone asked Julie K. why I ran 2 division, I ran a new bus division in 30 years, while managing another diivison in the side of the side. Kirkland across from Pier 39 and IC is at Ceasar Chavez. I ran them. When I said I was leaving, Leda asked me if there is a promotion, would that keep you? I said it was time for me to go. I felt like I could not manage with this cloud being created. Quite frankly and nobody stepping in, I had people sitting there and nobody filed this complaint.</p> <p>Brent Jones satid to me, Luke is using race as a tactic against you. I thought to myself. Brent and Mary Travis, she's required to go. But nobody</p>

	<p>stepped in because it was political. I asked Brent who has filed complaints against a union charid. I asked how is Julie going to react when I do this. I never filed something like this in my life. If I thought I had a different route. I've been an airlines, is the only one I've ever done. I felt like I had no way out. I'm so thankful that this posting came. Even if was still Manager 4, lateral move.</p> <p>Pay differential , City class and were both Manager 4. Did you lose money, I did not. I'm thrilled to be here. The joke was at MTA how I wound up there, I said, "well, they asked me what commercial license."</p> <p>No, I applied for another job in the AIR. When did you apply for that, before that one. 2019. Don't recall what the title was, it was a finance role, but it gave me a great opportunity to interview and give a feel. I would've been stunned, not the job, but great opportunity to apply. Parking and facilities.</p> <p>MTA was senior operations manager and I felt stifled, I wasn't going to be go up and ability to make change. And candidly, I had to talk to my boss. I was scared to death that this lawsuit or EEO was going to pop during the interview. Criss was supporting me. I'm scared to death to move to AIR. Took forever to go through. When: June/ July 2019.</p> <p>Applying to jobs: Couldn't be effective as a leader.</p> <p>Any witnesses: Monica Collins will tell. Leda Rozier, first boss at MTA. She was my superintendent and Senior Operations manager when I left MTA.</p>
<p>Any other career growth or opportunities you believe you lost or harmed by Luke and Dante's conduct?</p> <p>What? Decision maker? Connection to Luke and Dante's conduct? Why do you say so?</p>	

Can you identify any potential witnesses for DHR EEO to interview that you think could attest to the fact that your ability to manage was impacted due to these rumors and statements?

Anything else: I don't know what else to say. It just felt very singled out. I was very clear in my charge, I knew that I was the only [REDACTED] [REDACTED] during most of my tenure. I really felt singled out. Showed when nobody bothered with Ken Anderson and filed complaints against me. Individually, I just write a Skelly officer was not brought into the case. The very first EEO matter at MTA, Operator claimed I treated him by disciplining him when I didn't discipline other. The oddest part was EEO, interview, I had actually never disciplined the person, I never disciplined. The other strange part was I treated them differently, they were threatened out on the line, didn't show up, I sent the police department/wellness check. Accused employee. I never disciplined. When: early I know he was at Islais Creek or Kirkland, 2018/2019.

So at some point, you know especially, in my mind, every leader will have some of these accusations and runs rampant at MTA. But this something happened when exponentation levels with Dante and Luke, never experienced anything like this in my life. That's where I just said enough, can't do this anymore and prior, I spoke to Brent Jones June 2019 about Luke using this tactic. Somewhere I have email, documented my conversation, this shows early on Islais Creek.

I was besides myself, I had only met Dante and I took one of his classes, only met the guy. Never asked my opinions about anything.

Emily Williams, she sat in on the meeting with Dante.

EXHIBIT C

Weingarten Charge of Discrimination

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF HUMAN RESOURCES

CHARGE OF DISCRIMINATION

(To be Completed by EEO Staff in Consultation with Complainant)

1. Complainant: Neil Weingarten, 9174 Manager IV Email Address: [REDACTED]
Address: [REDACTED] [REDACTED]
Cell Phone: [REDACTED]

2. Respondent Department: San Francisco Municipal Transportation Agency (SFMTA)
Individual Respondent(s): Dante King (9180 Manager VI), Luke Jones (9163 Transit Operator),
Mary Travis-Allen, then-9180 Manager VI
Worksite: Islais Creek and Kirkland Divisions Telephone No.: _____
Address: _____

3. Complainant's Current Employment Status (circle one): Classification: 9174 Manager IV
PCS TCS TPV **PEX** TEX PROB NOT A CITY EMPLOYEE

4. Basis of Discrimination (specify):
 Race: [REDACTED]
 Color: _____
 Religion: _____
 Creed: _____
 Sex: _____
 National Origin: _____
 Ethnicity: _____
 Age: _____
 Disability/Medical Condition: _____
 Political Affiliation: _____
 Sexual Orientation: _____
 Ancestry: _____
 Marital or Domestic
Partner Status: _____
 Gender Identity: _____
 Parental Status: _____
 Other Non-Merit Factors: _____
 Retaliation: _____

5. Issue complained of:
 Denial of Employment
 Denial of Training
 Denial of Promotion
 Denial of Reasonable Accommodation
 Termination
 Lay-off
 Constructive Discharge
 Disciplinary Action
 Harassment
 Work Assignment
 Sexual Harassment
 Compensation
 Other (specify):
Failure to Prevent Harassment and
Discrimination

6. Has the Complainant filed the complaint with any other local, state or federal agency? Yes No
If yes, please specify: _____

7. Has the Complainant filed a grievance or lawsuit? Yes No
If yes, please specify: _____

8. Is the Complainant represented by a Union or an Attorney? Yes No
Name: Criss Romero Organization/Firm: MEA

Address: 870 Market Street, Suite 490, San Francisco, CA 94102 Phone No.: 415-989-7244

9. Describe specifically and in detail the circumstances of the alleged discrimination. Please include date(s) of adverse employment action(s).

From January 7, 2013 until July 10, 2020, I worked for the SFMTA, most recently as a 9174 Manager IV and Superintendent of Flynn Division. Previously, until February 2020, I was the Superintendent of two divisions, Islais Creek and Kirkland. Luke Jones is a 9163 Transit Operator and Union Chair of the Islais Creek Division. Dante King was Leader of Cultural Change, Equity, Employee Experience and Engagement at SFMTA (9180 Manager VI). As of July 11, 2020, I am no longer with the SFMTA.

I. DISCRIMINATION

A. November 8, 2019 - Meeting and Follow-Up

In November 2019, Jones was representing Robbie Y. Levels, then-9163 Transit Operator, regarding a separate disciplinary matter.

On November 8, 2019, I was invited to a meeting by Dante King. The calendar invitation was titled "Meeting with Robbie Levels", indicating the subject matter was Operator Level's discipline. However, King did not request any records, facts, or background on the discipline in question and only sent a meeting notice. In attendance were King, myself, Jones, Levels, Monica Collins, former Acting Assistant Manager (9139 Transit Supervisor, Mary Travis-Allen, then- Transit Senior Operations Manager (9180 Manager VI), and Emily Williams, Transit Business & Administration Manager (9179 Manager V). Thus, I believe the meeting invitation was a ruse to then speak poorly of me in front of others in management.

During this meeting, Jones and King made multiple verbal references to me targeting Operator Levels due to her race. Jones and Levels made untrue statements and King made no attempt to verify the veracity of their statements. Not only did King not request any of Levels' disciplinary records prior to the meeting, he did not contact me after the meeting for more information. King also made statements about allegations by other operators, provided his opinion of my need for training, and stated that all division managers should have disciplinary authority removed. My manager, Travis-Allen, did not speak to my defense as King made these comments towards me. However, Williams spoke and affirmed that I properly follow all specified guidelines when it comes to discipline and stated that the SFMTA had not been successful at ensuring that all managers were following the guidelines (as I did). I was asked accusatory questions during this meeting that could have led to discipline but was not prepared or given the opportunity to bring union representation.

On November 9, 2019, the next day, I was called to meet with Brent Jones, Acting Chief Transportation Officer, and Leda Rozier, Rail Senior Operations Manager. Jones reviewed Levels' discipline history and stated that my decision to dismiss was correct and that I should proceed. Jones had also previously said, "Luke Jones uses racial accusations as a tactic," indicating awareness that Luke Jones had made such comments and allegations regularly. In addition, Rozier made a comment similar to Williams', which was that other divisions were not closely following the discipline guidelines. During this meeting, I was told I no longer had to communicate or interact with King and that I should continue to follow the procedures and protocols as I had been. Jones also stated Division Managers and Assistant Managers no longer have to meet with King if he makes requests.

B. January 2020 - Step 2 Hearing

In January 2020, when I participated in Operator Level's Step 2 hearing, Jones and Levels asked that a copy of the determination be sent to King. This made it clear to me that King wanted to be involved in

Level's case even though, as stated previously, he at no point contacted me for accurate information and upper management had confirmed I had correctly followed policy. Due to this request, I believe King and Jones continue to discuss complaints against me and disparage me as a racist to others in the Agency. This impacted my career growth and opportunities, as well as my ability to manage.

C. January 2020 - Operator Discipline and Subsequent Lawsuit

On January 18, 2020, a Skelly hearing was held regarding the termination of another Islais Creek driver, Liza Williams, 9163 Transit Operator. Jones also represented Williams. Per the MOU, because the incident involved injury, another manager conducted the Skelly hearing as is protocol, and I prepared the materials. After arbitration, the termination was not upheld and was reduced to a [REDACTED]. Since then, I have been named in a lawsuit that specifically accuses me of being a racist. I believe this is further evidence that King and Jones are involved in the lawsuit, communicating about me and sharing information about me that harms my reputation and ability to conduct my work.

D. February 2020 Continued Rumors

On February 22, 2020, all division managers were reassigned, and I reassigned to Flynn Division. Within my first week at Flynn, I heard from an employee, Ify Omokaro, 9172 Manager II, that there were rumors that I am racist against [REDACTED] drivers. I believe these rumors came from Jones, because he was formerly an operator and "Vice-Chair" of the union at Flynn Division, and because Jones was copied on an email from a Flynn operator, even though Jones does not work at Flynn. This further supports my belief that Jones continues to disparage me, impacting my work.

II. HARASSMENT

During the November 8, 2019 meeting, Jones accused me of being racist against [REDACTED] drivers and said, "You treat [REDACTED] people like slaves."

Jones has represented operators in hearings and made comments about me to others. I understand, from others communicating to me, that Luke has raised allegations of race and racism playing a role in my disciplinary decisions, while Employee and Labor Relations have confirmed multiple times that my decisions are made entirely based on SFMTA's Rules and Regulations guidelines. I believe Jones is spreading this information because he and King have indicated that there are more complaints lined up against me for racism, and because I have already been interviewed for related allegations.

As the only [REDACTED] division manager, I felt I was singled out based on my race. These comments impact my ability to manage, especially when made in front of my subordinate employees. My reputation and career opportunities within the Agency continue to be negatively impacted.

III. FAILURE TO PREVENT

Lastly, as stated in Section I.A., my manager Mary Travis-Allen was present when King and Jones made these accusations and inappropriate comments but failed to take steps to prevent harassment and discrimination. On November 8, 2019, Travis-Allen heard Jones and King make false allegations about me but did not speak up or address them. On November 9, 2019, Travis-Allen was present when upper management, Brent Jones and Leda Rozier, affirmed my decisions were based on proper procedure. Furthermore, Travis-Allen was told at this time that she was at fault for not ensuring that other managers followed the discipline procedures as closely as I did, to which she did not respond and only smiled. At no point did Travis-Allen take action regarding the harassment and discrimination I experienced.

10. Has the Complainant taken any action to resolve the issue(s)? If yes, please specify.

On November 19, 2019, I reported by email to Virginia Harmon, SFMTA EEO Officer. I also brought my concerns to my management, Brent Jones and Mary Travis-Allen.

11. Remedy or corrective action desired by Complainant:

I would like the record to be corrected regarding King's statements and comments about me to others within SFMTA. I would like Jones and King to be required to stop spreading rumors and allegations about me to the rest of the Agency. In addition, Jones and King should both sign statements recanting the accusations and rumors they have made about me.

Completed by:

<small>DocuSigned by:</small>  <small>F22536973CF469...</small>	12/11/2020
EEO Staff's Name and Signature	Date

<small>DocuSigned by:</small>  <small>4D3DA276D9714EE...</small>	12/11/2020
Complainant's Name and Signature	Date

EXHIBIT D:

SFMTA's Response to Weingarten's Request for Information



London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaken, Vice Chair
Cheryl Brinkman, Director

Steve Heminger, Director
Sharon Lai, Director

Jeffrey Tumlin, Director of Transportation

CONFIDENTIAL

December 11, 2020

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

Via E-mail
Jeffrey.Tumlin@SFMTA.com

RE: Notification of Charge of Discrimination and Request for Information
Complainant: Neil Weingarten; DHR EEO File No. 3362

Dear Director Tumlin:

A complaint of employment discrimination has been filed against the San Francisco Municipal Transportation Agency (SFMTA or Department), Luke Jones [REDACTED] 9163 Transit Operator and Union Chair of the Islais Creek Division, Dante King [REDACTED] then-Leader of Cultural Change, Equity, Employee Experience and Engagement at SFMTA (9180 Manager VI), and Mary Travis-Allen, then-Transit Senior Operations Manager (9180 Manager VI). A copy of the Charge of Discrimination is enclosed. The Charter of the City and County of San Francisco (City) provides that the SFMTA Transportation Director shall review and resolve allegations of employment discrimination within the SFMTA. As delegated to the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO), I have been assigned to investigate this complaint. My role as an investigator is to act as an objective third party, representing neither the complainant nor the party charged with discrimination.

I. NOTIFICATION OF CHARGES

From January 7, 2013 to July 10, 2020, Neil Weingarten [REDACTED] worked for the SFMTA, most recently as a 9174 Manager IV and Superintendent of Flynn Division. Prior to managing Flynn, Weingarten was the Superintendent of two divisions, Islais Creek and Kirkland.

Weingarten alleged that he experienced discrimination and harassment based on his race [REDACTED], as detailed in the enclosed Charge of Discrimination, that negatively impacted his ability to manage and advance his career within the SFMTA. Weingarten also alleged that his supervisor, Travis-Allen, failed to prevent this discrimination and harassment.



As a remedy, Weingarten requests that: the record be corrected regarding any statements or comments King has made to others within SFMTA about him; for Jones and King to be required to stop spreading rumors and allegations about him within the SFMTA; for Jones and King to sign statements recanting the accusations and rumors they have made about him; and for all other appropriate action to be taken.

II. REQUEST FOR INFORMATION AND DEPARTMENTAL RESPONSE

To investigate this complaint, I request the Department provide the following information **within 10 business days**. Therefore, please provide a response no later than **Tuesday, December 29, 2020**.

A. Respondent's Response to the Charge

The Department should cooperate in providing me the information requested herein, but the SFMTA should not conduct its own investigation to respond to the allegations. In particular, the SFMTA should not interview persons regarding the allegations. If the SFMTA believes it is necessary to investigate or interview witnesses to respond to the charge, requests for information, or requests for documents, please contact me before conducting any investigation or interviews.

B. Request for Information

Please identify the individual(s) (by name and work phone number) who can assist with obtaining the following information:

1. All communications, including emails, sent by Dante King regarding Neil Weingarten, from October 2019 to October 2020 date, including any communications in which Dante King accused Neil Weingarten of racial bias against [REDACTED] or other similar allegations or remarks.
2. All communications, including emails, sent by Luke Jones regarding Neil Weingarten, from October 2019 to October 2020, including any communications in which Jones accused Neil Weingarten of racial bias against [REDACTED] or other similar allegations or remarks.

C. Request for Documents

I will be contacting Kathy Fowlis, SFMTA's Custodian of Records, at Kathy.Fowlis@SFMTA.com and (415) 701-5037 to coordinate my review of the official personnel files of Dante King, Luke Jones, and/or Neil Weingarten, as needed. Unless the SFMTA requests otherwise, I will also be contacting Fowlis for her assistance in obtaining additional documents that come to my attention:



D. Scheduling of Witness Interviews

I request your assistance in scheduling interviews with each of the following individuals:

1. Monica Collins, 9139 Transit Supervisor
2. Emily Williams, 9179 Manager V
3. Mary Travis-Allen, 9180 Manager VI (Retired)
4. Brent Jones, 9183 Deputy Director I
5. Leda Rozier, 9180 Manager VI
6. Ify Omokaro, 9172 Manager II
7. Luke Jones, 9163 Transit Operator

Please be advised there may be a need to schedule further witness interviews as the investigation progresses. If the SFMTA is currently aware (*i.e.*, without conducting an investigation) of any other individuals who have or are likely to have information relevant to the allegations, please identify such individuals by name and job title.

III. IMPORTANT REMINDERS

Please remember that the information in this request is sensitive, that this document should not be shared with anyone named in the document, and that management should use professional discretion with regard to these allegations. In addition, management should be reminded that any form of retaliation against an employee for making a complaint of discrimination or participating in this investigation is strictly prohibited by law.

I remind all those involved in complaints of discrimination that the process of evaluating the merits of the charges reinforces each employee's right to a workplace free of discrimination. Therefore, allegations should not be considered as personal attacks but management opportunities to demonstrate a commitment to such a working environment.

Should you have any questions about the complaint process, or this request, please do not hesitate to contact me at dorothy.s.young@sfgov.org or at my voicemail, (415) 557-4934. Thank you for your assistance.

Sincerely,
DocuSigned by:

A handwritten signature in black ink that reads "Dorothy Young". The signature is written in a cursive style.

7F24536875CF468...
Dorothy Young

EEO Programs Specialist

Department of Human Resources



Encl.: Neil Weingarten December 11, 2020 Signed Charge of Discrimination

c: Kimberly Ackerman, Human Resources Director, SFMTA
Virginia Harmon, EEO Officer, SFMTA
Matthew Valdez, Acting Director, EEO and Leave Programs, DHR
Rikki De Wit, EEO Programs Manager, DHR

Korzilius, Heather <Heather.Korzilius@sfmta.com>

RE CON DEN AL R Retrieve Emails

February 11, 2021 at 3:54 PM PST

o Young, Dorothy (HRD) <dorothy.s.young@sfgov.org>

Hi Dorothy,

Here is the link to the search results: https://avanan.url-protection.com/v1/url?o=https%3A%2F%2Fsfmta-my.sharepoint.com%2F%3A%2Fp%2Fheather_korzilius%2FEpl1gOYWuU9PmU11QEE-a0oBNx3LFuPv_RIWj6LWddW8bQ&g=YzA0YWU3NzkzNWQ2Yjg2ZQ==&h=ODhmMDZiOGQ5YWFjMmY4NWU2M2YwMGFiNWE3NmM4Zjg5YzI0NGFiNGUyMGRkODk2ZW14ZjBjNzgzN2UyMWMWjZA==&p=YXAz

Let me know if you have any questions,
Heather

-----Original Message-----

From: Young, Dorothy (HRD) <dorothy.s.young@sfgov.org>
Sent: Thursday, February 11, 2021 3:07 PM
To: Korzilius, Heather <Heather.Korzilius@sfmta.com>
Subject: RE: CONFIDENTIAL: RFI Retrieve Emails

Hi,

OneDrive should be fine. Please let me know when it will be available to download. Thank you.

Sincerely,
Dorothy

Dorothy Young, EEO Programs Specialist
Department of Human Resources
One South Van Ness Ave., 4th Floor
San Francisco, CA 94103
Voicemail: (415) 557-4934

Website: <https://avanan.url-protection.com/v1/url?o=www.sfdhr.org&g=MDU4OGVhZGE0NTA0ZDI0MA==&h=MjA5YjZlYjg4NDRmYjJhN2Q5MfcwNGNlZTQ4MTExNmYjYmRmNjYmMzYzMGYxMTg3MGVkZGI0YWM2MjY2ZGZINA==&p=YXAzOnNmZHQyOmF2Y>

-----Original Message-----

From: Korzilius, Heather <Heather.Korzilius@sfmta.com>
Sent: Thursday, February 11, 2021 2:19 PM
To: Young, Dorothy (HRD) <dorothy.s.young@sfgov.org>
Subject: FW: CONFIDENTIAL: RFI Retrieve Emails

Hi Dorothy,

I have the results of this search in a .pst. Would you like me to share it with you in OneDrive, or do you have a preferred site?

Thanks,
Heather

Heather Korzilius
IS Engineer - Principal
Technology & Performance

Office 415-646-2387

San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 3rd floor
San Francisco, CA 94103

From: Harmon, Virginia <Virginia.Harmon@sfmta.com>
Sent: Monday, February 8, 2021 9:54 AM
To: Walton, Lisa <Lisa.Walton@sfmta.com>
Cc: Young, Dorothy (HRD) <dorothy.s.young@sfgov.org>; DeWit, Rikki (HRD) <rikki.dewit@sfgov.org>
Subject: FW: CONFIDENTIAL: RFI Retrieve Emails

Hi Lisa-

We need to pull email as described below sent by Dante King and Luke Jones for a confidential EEO investigation. Can you please assign this project to someone to handle given its confidential nature?

Please let me know if you have any questions.

Thanks

Virginia

From: Young, Dorothy (HRD) <dorothy.s.young@sfgov.org <mailto:dorothy.s.young@sfgov.org>>
Sent: Wednesday, February 3, 2021 4:18 PM
To: Harmon, Virginia <Virginia.Harmon@sfmta.com <mailto:Virginia.Harmon@sfmta.com>>
Cc: DeWit, Rikki (HRD) <rikki.dewit@sfgov.org <mailto:rikki.dewit@sfgov.org>>
Subject: CONFIDENTIAL: RFI Retrieve Emails

Hi Virginia,

Can you authorize or help facilitate a confidential request from SFMTA IT Support? I was sent their direct contact (itsupport@sfmta.com <<mailto:itsupport@sfmta.com>>) by Julie Ziegler in response to the RFI for my investigation (CP: Neil Weingarten).

The request is as follows:

I All communications, including emails, sent by Dante King regarding Neil Weingarten, from October 2019 to October 2020 date, including any communications in which Dante King

EXHIBIT E, Attachment 1:

Investigative Interview with Anthony Ballester, 9163 Transit Operator



CONFIDENTIAL

**DHR EEO INVESTIGATION OF EMPLOYMENT DISCRIMINATION COMPLAINT
 WITNESS INTERVIEW NOTES**

Witness: Anthony Ballester	EEO File No./Dept.: 3362/SFMTA
EEO Investigator: Jennifer Burke	Date & Time: May 24, 2022 10:30 a.m. – 11:35 a.m.
Others Present:	
Location: Via Teams	Pages:

Great, I have a long introductory statement that gives you an overview of why I’m talking with you today and about your rights and responsibilities regarding this process, so please feel free to interrupt if you have any questions as I go, ok?

**CITY AND COUNTY OF SAN FRANCISCO, DEPARTMENT OF HUMAN
 RESOURCES, EQUAL EMPLOYMENT OPPORTUNITY DIVISION
 CHECKLIST FOR INTRODUCTORY STATEMENT FOR
 WITNESS INTERVIEW QUESTIONS**

The City and County of San Francisco and the San Francisco Municipal Transportation Agency (SFMTA) take all allegations of discrimination, harassment, and retaliation seriously. The City and MTA have an obligation to investigate claims of discrimination, harassment, and retaliation, and this investigation is being conducted consistent with those obligations.

I’m investigating a complaint. My role is that of a neutral fact finder and I will be taking notes during the interview. I do not represent MTA or the person who has made a complaint.

You are being interviewed today because you have been identified as a witness with information that will help DHR EEO make a determination in this investigation. Participants in the investigation should cooperate by providing any written materials, names of witnesses, and other information to assist the investigation. All persons interviewed must also be truthful.

CONFIDENTIALITY:

To ensure the integrity of the investigatory process, to prevent testimony from being influenced, and to protect against retaliation, all persons interviewed are asked not to discuss the investigation with anyone other than their representative. To ensure fairness for any individual who may be the subject of the investigation, we also ask that you refrain from discussing the investigation with uninvolved persons. We specifically ask that you not discuss:

- The fact you are being interviewed;
- The existence of the investigation; and

- The questions asked or answers provided.

We ask that you maintain this confidentiality until the conclusion of the investigation. Thank you in advance for your cooperation.

CONFIDENTIALITY: Disclosure of information regarding the investigation shall be limited to those persons with a legitimate need to know. Confidentiality cannot be promised.

NOTE, if asked: *People with a need to know may include my supervisor, Carol Isen, Director of Human Resources, the Department head and HR*

RETALIATION IS PROHIBITED:

- Retaliation for participating in the EEO complaint process is prohibited by law and by the CCSF's policies, and will not be tolerated.
- If you believe you are being retaliated against, immediately contact your Department's personnel officer, any supervisor, HR personnel, DHR, or me.

Do you have any questions about what I just went over?	
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I. BACKGROUND INFORMATION

A. Witness Employment Background

<p>Can you confirm for me when you started working for the City?</p> <p>June 22, 2015</p>	<p>[REDACTED]</p>
<p>And was your job class a 9163 Transit Operator?</p>	<p>[REDACTED]</p>
<p>What unit or division do you work at MTA?</p> <p>How long in that unit?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>What is your work schedule?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Who's your supervisor? How long?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Did you ever work out of Flynn division?</p> <p>From when to when?</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>How long did you work there?</p>	<p>[REDACTED]</p>
<p>Who was your supervisor at Flynn?</p>	<p>[REDACTED]</p>
<p>Anyone else at Flynn that you worked with frequently or closely with?</p>	<p>[REDACTED]</p>
<p>What schedule/shift did you work at Flynn?</p>	<p>[REDACTED]</p>

<p>Do you socialize with any MTA employees outside of work—like meet up together or talk or text socially?</p>	<p>[REDACTED]</p>
<p>Overall, how do you like working at MTA?</p>	<p>[REDACTED]</p>
<p>Other than your supervisor, have you spoken with any City employees about this interview?</p>	<p>[REDACTED]</p>

B. Respondent Luke Jones

<p>Do you know Luke Jones?</p>	<p>[REDACTED]</p>
<p>When did you meet Luke?</p>	<p>[REDACTED]</p>
<p>How were you and Luke related on the MTA org chart?</p>	<p>[REDACTED]</p>
<p>When did Luke work at Flynn? From when to when? What role? Who was supervisor? Who did Luke work with frequently or closely at Flynn?</p>	<p>[REDACTED]</p>

<p>Describe your working relationship with Luke</p> <p>During that time, how frequently would you work on work tasks with her?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>How would you describe Luke's work style? -- like what kind of employee is he?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Socialize with Luke outside of work?</p>	<p>[REDACTED]</p>
<p>Do you know if Luke had any problems with any co-workers?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

C. Complainant Neil Weingarten

Do you know Neil Weingarten?	[REDACTED]
When did you meet Neil?	[REDACTED]
How were or are you and Neil related on the MTA org chart?	[REDACTED]
When did Neil work at Flynn? From when to when? What role?	[REDACTED]
Describe your working relationship with Neil - How frequently do you/ did you work on work tasks with him?	[REDACTED]
How would you describe Neil's work style? -- what kind of employee is he?	[REDACTED]

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
See outside of work? Text?	<p>[REDACTED]</p>
Do you know if Neil had any problems with any co-workers?	<p>[REDACTED]</p> <p>[REDACTED]</p>

D. Relationship Between Neil and Luke

Do you know if Neil and Luke get along?	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
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II. HARASSMENT/ HOSTILE WORK ENVIRONMENT

A. Jones' Comments about Weingarten

<p>In your own words, can you describe how the Flynn drivers perceived Neil as a Superintendent?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Did Luke ever speak with you about Neil's performance as Superintendent?</p> <p>What did he say? What did you understand him to mean? Why do you think he told you?</p>	<p>[REDACTED]</p>
<p>While at Flynn, can you tell me about any gossip or rumors you heard about Weingarten?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>You ever hear anyone at Flynn call Weingarten names?</p>	<p>[REDACTED]</p>
<p>You ever see Luke at Flynn? How often? For what reason?</p>	<p>[REDACTED]</p>
<p>Have you ever heard Luke talk about how Neil treats [REDACTED] employees?</p>	<p>[REDACTED]</p>

Ever hear Luke say that Neil is racist?	[REDACTED]
Anyone ever tell you they heard Luke do so?	[REDACTED]
Did you ever bring a female Operator into Weingarten's office and she began yelling at Weingarten?	[REDACTED]
If no, do you know why Weingarten would say you did so?	[REDACTED]
If yes, can you tell me about that incident?	[REDACTED]
If yes, during that incident did you give Weingarten a look as if to say "sorry"?	[REDACTED]

B. Impact on Weingarten's Work

How would you describe Neil's ability to manage at Flynn as Superintendent?	[REDACTED]
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