



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

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

January 2024

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Reginald R. Rogers
[REDACTED]

**SUBJECT: REQUEST FOR A HEARING BY REGINALD R. ROGERS, FORMER TRANSIT OPERATOR (9163)
MUNICIPAL TRANSPORTATION AGENCY ON THEIR FUTURE EMPLOYMENT RESTRICTIONS.**

Dear Reginald Rogers:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **February 5, 2024, at 1:00 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, January 31, 2024. 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, January 30, 2024**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

Attendance by you or an authorized representative is recommended. You will have up to 10 minutes for your presentation unless your time is extended by the Commission. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. Where applicable, the Commission has the authority to uphold, increase, reduce, or modify any restrictions recommended by the department. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

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

CIVIL SERVICE COMMISSION

SANDRA ENG
Executive Officer

Attachment

Cc: Jeffrey Tumlin, Municipal Transportation Agency
Kimberly Ackerman, Municipal Transportation Agency
Yaya Holmes, Municipal Transportation Agency
Shana Dines, Municipal Transportation Agency
David Garcia, Municipal Transportation Agency
Aleta Washington-Williams, Municipal Transportation Agency
Anthony Ballester, Local 250-A
Pete Wilson, Local 250-A
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

Speaker cards are not required. The Commission will take in-person public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the "Requests to Speak" portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended. People who have received an accommodation due to a disability (as described below) may provide their public comments remotely. The Commission will also allow public comment from members of the public who choose to participate remotely. It is possible that the Commission may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Commission will attempt to correct the problem, but may continue the hearing so long as people attending in-person are able to observe and offer public comment.

J. Public Comment and Due Process

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

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

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

Information on Disability Access

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

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

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

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

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

San Francisco Lobbyist Ordinance

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



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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: 192 - 23 - 7
2. For Civil Service Commission Meeting of: February 5, 2024
3. Check One:

Ratification Agenda	_____
Consent Agenda	_____
Regular Agenda	<u> X </u>
4. Subject: Request by Reginald Rogers re: Restrictions on Future Employability
5. Recommendation: Accept the report, deny the appeal and approve proposed restrictions, and cancel any current examination and eligibility status.
6. Report prepared by: Yaya Holmes Telephone number: 415-701-5050
7. Notifications: **(Attach a list of the person(s) to be notified in the format described in IV. Commission Report Format -A**
8. Reviewed and approved for Civil Service Commission Agenda:

Municipal Transportation Agency Director: Ackerman, Kimberly
Kimberly W. Ackerman, Chief People Officer, SFMTA
Date: January 23, 2024
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.

Attachment

CSC-22MTA (9/00)

CSC RECEIPT STAMP
RECEIVED
2024 JAN 23 09:36:09
EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION
SAN FRANCISCO



London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Steve Heminger, Director
Dominica Henderson, Director

Fiona Hinze, Director
Lydia So, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

MEMORANDUM

DATE: February 5, 2024

TO: The Civil Service Commission

THROUGH: Kimberly W. Ackerman, Chief People Officer, SFMTA

From: David Garcia, Labor Relations Manager, SFMTA

SUBJECT: Appeal of Future Employability Restrictions by Reginald Rogers – Former 9163 Transit Operator (Register No.0192-23-7)

I. BACKGROUND

The San Francisco Municipal Transit Agency (Agency) hired Reginald Roger (Appellant) as a Permanent Civil Service (PCS) Transit Operator (Job Code 9163) on July 21, 2014. The Agency dismissed him from his position on August 22, 2023. The Agency recommends permanently restricting his future employability. Specifically, the Agency and the City and County of San Francisco (CCSF) should cancel his current examinations and eligibility status and offer no future employment with the Agency or the CCSF. **(EXHIBIT A)**

On March 31, 2023, the Appellant was at the terminal station located at Beach and Jones. The Appellant alighted several passengers and one passenger remained on the bus. The Appellant let the passenger know it was the last stop; after a brief exchange, the passenger refused to exit the coach. Coach video shows the Appellant exit the coach. When he returns, he has a pink canister in his hands. The Appellant tried again to coax the passenger off the coach. As the Appellant passed the passenger, who was lying down on the seat, he pepper-sprayed the passenger in the face. The passenger immediately reacted by screaming and holding his face. The passenger was seen rolling on the coach floor and lying near the rear door. The passenger fell off the coach and onto the ground.

The Appellant closed the coach door and drove off but was still near enough to hear and see the passenger. The Appellant offered no assistance even though the passenger could be heard screaming. Another passenger heard his screams for help and asked for someone to call 911. The Appellant tried to interfere with the passenger receiving help. The Appellant said, "Miss, don't help him, he may attack you." The Appellant called the Transit Management Center (TMC) to report feces on the coach yet did not report the incident.



TMC gave Roger orders to pull into the Woods Division and swap his coach. SFMTA inspectors boarded the coach to look for the feces. The inspector observed feces near where the passenger was lying down. SFPD (San Francisco Police Department) came to Woods to review the coach's video. SFPD arrested the Appellant while at the division.

A. Investigation

The San Francisco Fire Department paramedic arrived and transported the passenger to St. Francis Hospital. The passenger was heard screaming that his face was burning, with snot coming from his nose and he said he was pepper sprayed.

The San Francisco Police Department was also on the scene. A Transit Inspector who happened to be in the area noticed the emergency vehicle at the terminal and inquired about what happened. The SFPD informed the Inspector that a Muni operator (Appellant) had pepper sprayed the passenger. The Inspector contacted TMC to hold the Appellant and the coach at the division. The Inspector requested the video be pulled for review. The Inspector and SFPD reviewed the video, and it was determined that the employee pepper-sprayed the passenger. SFPD arrested the Appellant while he was still at the division.

On April 1, 2023, the Transit Inspector reviewed the incident and completed an incident report. The onboard video shows the Appellant exiting the bus and after returning to the coach, holding a pink object in his hand with his thumb on the top of it as if to spray something. The video shows the Appellant motion his hand with the pink object toward the passenger, and the passenger's immediate reaction to the Appellant's motion. The video is convincing proof that the passenger was sprayed in the face with a caustic substance.

On May 1, 2023, the Appellant attended an investigative conference with his manager and two union representatives. During that conference, the Appellant said he understood the reason for the investigation but denied using pepper spray on a passenger and denied doing any wrong.

B. Grievance & Dismissal

On May 9, 2023, the Agency issued the Appellant a "Proposed Recommended Dismissal for Conduct on 3/31/2023" from his 9163 Transit Operator Permanent Civil Service (PCS) position. The Appellant obtained Union representation. **(EXHIBIT B)**

On May 11, 2023, the Agency held a Skelly meeting so the Appellant could fully respond to the charges.

The charges against the Appellant were as follows:



The Appellant must comply with all the policies and rules contained in the SFMTA Rules and Instructions Handbook as set forth below:

SFMTA Rules and Instructions Handbook

Rule 2.8 Conduct

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

Rule 2.8.10 Immoral employees will not be retained in the service.

Rule 2.8.12 Vicious employees will not be retained in the service.

Rule 2.13 Discipline

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

- A. Inattention to duties
- D. Immoral Conduct
- F. Discourteous treatment of the public or other employees of the SF Muni Railway.

Rule 2.21 Safety

Rule 2.21.15 Employees must be careful to avoid any act or situation that could cause injury to themselves or others.

The Appellant attended the meeting and was represented by the TWU 250A Service Critical. On May 17, 2023, The Skelly officer upheld the recommendation to dismiss the Appellant. **(EXHIBIT C)**

On June 5, 2023, the Union, TWU 250A Service Critical submitted a grievance on behalf of the Appellant asserting there was no evidence and the Appellant's proposed termination was based on false claims. The Union also asserted the Agency did not follow due process and progressive discipline. **(EXHIBIT D)**

On June 13, 2023, the manager denied the grievance. **(EXHIBIT E)**

On June 22, 2023, TWU 250A Service Critical filed a Step 2 on behalf of the Appellant asserting that due process and progressive discipline were not followed. **(EXHIBIT F)**



On August 2, 2023, the Appellant attended a Step 2 meeting and was represented by TWU 250A. The Step 2 officer reviewed the Skelly packet, heard the Union's arguments, and on August 16, 2023, upheld the dismissal. **(EXHIBIT G)**

The appellant dismissal was adopted, and he was dismissed on August 22, 2023. **(EXHIBIT H)**

On August 23, 2023, The Union elevated the grievance to arbitration and the hearing was held on August 30, 2023. The impartial arbitrator found sufficient cause to terminate the Appellant for using pepper spray on a passenger, especially when unprovoked. The arbitrator found the Agency presented convincing evidence. The arbitrator was convinced by the video present at the hearing, that the Appellant did use pepper spray. The arbitrator rejected the Appellant's claim that he was holding a cutting tool. The arbitrator stated, "The Grievant's claim that he was holding a cutting tool instead of a spraying device while not accepted by me, is in and of itself inappropriate, as he should have not approached a passenger who was obviously impaired with a dangerous cutting tool in his hand." **(EXHIBIT I)**

On September 1, 2023, the arbitrator denied the Appellant's grievance and upheld the dismissal. **(EXHIBIT J)**

C. Civil Service Appeal

On September 7, 2023, the Appellant sent a request for appeal to the Civil Service Commission (CSC). The Appellant requested a hearing to review his future employability with the City and County of San Francisco following his release from the position of Transit Operator (Job Code 9163).

On November 1, 2023, the Appellant submitted a "demand letter" via email. The document's subject line was "Unjust Arrest and Unfair Arbitration Proceedings." The document outlines how the Appellant believed his arrest was unjust and the lack of effective union representation.

II. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION

Is it reasonable to preclude the Appellant permanently from future employment with the SFMTA and the CCSF, and to cancel his examination and eligibility status given the severity of the Appellant's offense?

III. AUTHORITY AND STANDARDS

Under Civil Service Commission Rule 422.1.3, states:



The employee has the right to a hearing before the Civil Service Commission provided that a request for a hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of termination of appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20th day falls on a non-business day, the deadline shall be extended to the close of business of the first business day following the 20th day.

Under CSC Memorandum No. 2014-10 Policy & Guidelines re: Future Employment Restrictions, the Commission does not determine if the negative release itself was appropriate. The Commission's role is to determine if the proposed restriction on future employment is appropriate (i.e., whether the circumstances surrounding the individual's negative separation merits a restriction of his or her future employment with the City/department; and whether the scope, duration, and type of restriction itself is appropriate under the circumstances.)

Civil Service Adviser No. 21/2003 Appeals on Future Employment Restrictions also provides Permanent Civil Service-Discharge: The decision of the appointing authority/department head to discharge an employee may be subject to the applicable grievance/arbitration procedures found in the collective bargaining agreement. Appeals to the Civil Service Commission on the recommendation of the appointing authority/department head on future employment must be filed within 20 days as described in the Notice of Separation form.

IV. FINDINGS

A. The SFMTA's Decision to Impose Permanent Future Employment Restrictions Is Justified

The SFMTA's May 9, 2023, Skelly notice includes the factual basis for the charges, and describes the procedure and rationale the SFMTA used to determine that dismissal was the appropriate consequence for the Appellant's behavior. Each charge therein supports the dismissal and restrictions on his future employment with the City and SFMTA.

B. Permanent Citywide Employment Restrictions Are Appropriate and Necessary

Under CSC Memo 2014-10 Policy & Guidelines re: Future Employment Restrictions, departments have an affirmative duty to their employees, other departments, and the taxpayers of the City, and the individuals to whom the city provides services to. This includes the obligation to review the circumstances of any negative separation to determine whether it would be appropriate to restrict a former employee's future employment with the City.

This evaluation should be based on a case-by-case basis, based on the totality of circumstances (e.g., the egregiousness of the conduct, whether it was repeated or a one-time occurrence, etc.) Generally speaking, and depending on the circumstances, one or more of the following situations would likely merit a future employment restriction of some kind:



Egregious misconduct (malfeasance or nonfeasance); Serious unethical conduct which may mar the Department's reputation and/or the public's trust in the Department/City; or Mistreatment of persons (e.g., sexual harassment, violence in the workplace)

Pepper spray contains an inflammatory compound called capsaicin. When pepper spray comes into contact with a person's eyes, it causes immediate eye closure, acute eye pain, and temporary blindness. Some people describe a bubbling or boiling sensation and severe discomfort. While the effects of pepper spray may resolve within 30 minutes there are instances of long-term effects depending on a person's medical conditions.

Unprovoked, the Appellant sprayed the passenger. The passenger was lying down on the seat with his pants halfway down. The passenger appeared intoxicated although he made no aggressive moves toward the Appellant. He continued lying down until the Appellant pepper sprayed him. The Appellant made no attempts to help the passenger afterward. Instead, he exited the bus and went to use the restroom. When he returned from the restroom he could still see and hear the passengers screaming in pain and yet offered no assistance. The Appellant did not report the incident even though he contacted TMC to report feces on the bus, nor did he ask the TMC to send paramedics.

The Appellant gave no regard to the passenger's health conditions and did not assist the passenger even though the passenger was screaming in pain. The Appellant actively tried to discourage a pedestrian from helping. Given the severity of the incident, the restrictions are appropriate and are consistent with the Agency's practice of not retaining employees who violate the workplace violence policy. The Permanent restriction was imposed because the Appellant's action merited such a severe restriction.

C. Appellant Contest His Future City Employment Restrictions

The Appellant was afforded all rights under his collective bargain agreement TWU 250 A (9163). The Appellant was issued a Skelly notice, that included the charges and the materials upon which the charges are based, he was advised of the Skelly meeting date and time and his right to Union representation. The Appellant attended the Skelly meeting with his Union, and he and the Union could respond to the charges. The Union requested and received a Step 1 and Step 2 grievance process, including an arbitration before an impartial arbitrator on the Appellant's behalf. The Union was present with the Appellant throughout his appeal.

The Agency relied on the Transit Inspector's report and the onboard video that provided clear and convincing evidence that the Appellant unprovoked pepper sprayed the passenger. The Agency did not need to rely on the police report to bring charges against the Appellant, nor did it do so.

V. DISCUSSION & ANALYSIS



The appeal was timely. The Appellant was dismissed from his position on August 22, 2023. The Appellant filed the CSC appeal on September 7, 2023, and he had until September 11, 2023, to file.

The SFMTA is committed to maintaining a workplace free from violence and threats of violence. Its zero-tolerance policy strictly prohibits any act or threat of violence towards employees or in the workplace. Undeniably, the Appellant's action of pepper spraying a passenger unprovoked and intoxicated was egregious. His behavior was dangerous, and unethical, and showed a lack of care for the community and the public he was tasked to serve.

The Appellant violated the CCSF Employee Handbook – Policy Prohibiting Employee Violence in the Workplace and Policy: **(EXHIBIT K)**

The City and County of San Francisco (CCSF) is committed to maintaining a workplace free from violence and threats of violence and will not tolerate any acts or threats of violence in the workplace. Any act or threat of violence in the workplace is strictly prohibited... Failure to comply with these policies may result in employee discipline up to and including termination as well as criminal prosecution.

The Appellant violated the Equitable Fair and Respectful Workplace Policy: **(EXHIBIT L)**

The City will not tolerate Disrespectful Behavior in any City workplace and seeks to intervene at the earliest sign or state of Disrespectful Behavior in misconduct and prevent its recurrence. Any employee or officer who violates this policy will be subject to disciplinary actions up to and including termination.

The Appellant violated the SFMTA Rules and Instructions Handbook. According to the SFMTA Rules and Instructions handbook disputes with any person, no matter what the provocation are to be avoided. Further, it says that immoral and vicious employees will not be retained in service. SFMTA employees must be careful to avoid any act or situation that could cause injury to themselves or others. Adherence to the rules outlined in the handbook is essential to the safe operation of the SFMTA railway and streets. Violation of any of the rules in the handbook is considered sufficient cause for disciplinary action up to and including dismissal.

CONCLUSION

For the reasons mentioned herein, the SFMTA dismissed the Appellant from his position. The Appellant's disrespectful, confrontational, unprovokedly pepper spraying and not offering assistance prompted his dismissal on August 22, 2023.

RECOMMENDATION



The SFMTA recommends the Commission accept its report, deny the appeal, and approve the proposed restrictions on the Appellant's future employment.

Attachments:

CSC letters dated September 19, 2022 – Register No: 0192-23-7

Memorandum from SFMTA to CSC

Exhibit A: Job Appointment Summary

Exhibit B: May 9, 2023 - Notice of Proposed Disciplinary Action/Skelly Meeting

Exhibit C: May 17, 2023 - Skelly Decision

Exhibit D: June 5, 2023 - Step 1 Request

Exhibit E: June 13, 2023 - Step 1 Grievance Response

Exhibit F: June 22, 2023 - Step 2 Grievance Request

Exhibit G: August 16, 2023 - Step 2 Decision

Exhibit H: August 22, 2023 - Notice of Dismissal

Exhibit I: August 23, 2023 - Arbitration Request

Exhibit J: September 1, 2023 - Arbitration Decision

Exhibit K: CCSF Employee Handbook – Policy Prohibiting Employee Violence in the Workplace and Policy

Exhibit L: Equitable Fair and Respectful Workplace Policy

Exhibit M: November 3, 2023 – Additional Information from Appellant

NOTIFICATIONS

Reginald R. Rogers Jr.



Jeffrey Tumlin -Director of Transportation
1 South Van Ness Ave. 8th Floor
San Francisco, CA 94103
Email: Jeffery.Tumlin@sfmta.com

Kimberly W. Ackerman – Chief People Officer, SFMTA Human Resources

1 South Van Ness Ave. 6th Floor
San Francisco, CA 94103
Email: Kimberly.Ackerman@sfmta.com

Yaya Holmes – Labor Relations Analyst
1 South Van Ness Ave. 6th Floor
San Francisco, CA 94103
Email: Yaya.HOlmes@sfmta.com

Shana Dines - Employee & Labor Relations Manager
1 South Van Ness Ave. 6th Floor
San Francisco, CA 94103
Email: Shana.Dines@sfmta.com

David Garcia - Labor Relations Manager
1 South Van Ness Ave. 6th Floor
San Francisco, CA 94103
Email: David.Garcia@sfmta.com

Aleta Washington-Williams
1001 22nd Street
San Francisco, CA 94107
Email: aleta.washington-williams@sfmta.com

Anthony Ballester – Local 250-A, President
1508 Fillmore St. #211
San Francisco, CA 94115
Email: aballester@twusf.org

Pete Wilson- Local 250-A, Vice President
1508 Fillmore St. #211
San Francisco, CA 94115
Email 1: pwilson@twusf.org
Email 2: vicepresident@twusf.org
Email 3: discipline@twusf.org



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

NOTICE OF RECEIPT OF APPEAL

DATE: September 19, 2023

REGISTER NO.: 0192-23-7

APPELLANT: REGINALD ROGERS

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

Dear Jeffrey Tumlin:

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

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention by email at civilservice@sfgov.org. CSC Form 13 is available on the Civil Service Commission's website at www.sf.gov/CivilService on the "File an action request for a Civil Service Commission hearing page."

In the event that Reginald Rogers' appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on December 7, 2023**, so that it may be heard by the Civil Service Commission at its meeting on December 18, 2023. If you will be unable to transmit the staff report by the December 7th deadline, or if required departmental representatives will not be available to attend the December 18th meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

Appellant: Reginald Rogers
September 19, 2023
Page 2

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

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

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



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

**LONDON N. BREED
MAYOR**

Sent via Email

September 19, 2023

Reginald Rogers
[REDACTED]

Subject: Register No. 0192-23-7: Requesting a Hearing on their Future Employability with the City and County.

Dear Reginald Rogers:

This is in response to your appeal submitted to the Civil Service Commission on September 7, 2023, requesting a hearing on your future employability with the City and County of San Francisco. Your appeal has been forwarded to the Municipal Transportation Agency for investigation and response to the Civil Service Commission.

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

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

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

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer



xl - J Tumbia
c to K Acherman
c to R Williams
c to S Dines
c to D Garcia

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

Greetings,

My name is Reginald Rogers, I'm requesting a hearing for review before the Civil Service Commission about my future employability with the City and County of San Francisco.

Sincerely,

Reginald Rogers



RECEIVED
2023 SEP 07 15:19:53
EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION
SAN FRANCISCO

Exhibit A

CCSF Job Appointment Summary

Reginald R Rogers Jr (Reginald)

Emp

ID [REDACTED]

Empl Record 0

Personalize | Find | View All | First 1-3 of 3 Last

Job Appointment Summary

Eff Date	Appt Date	Action	Description	Payroll Status	Job Code	Union Code	Empl Class	Exmpt Cat	Full/Part Time	Elig List #	Rank	POS #	Dept Sen Date	Dept	Location	Cert Date	Citywd Snrty Date	Company Seniority Date	Vacation Anniversary Date	Sick Anniversary Date
08/22/2023	07/21/2014	TER	Dismissal of Permanent Employee	Terminated	9163	253	PCS	NA	F	058996	119.00	01039966	07/07/2014	MTA	MTA006	07/07/2014	07/07/2014	07/21/2014	07/21/2014	07/21/2014
07/01/2017	07/21/2014	POS	Position Data Update	Active	9163	253	PCS	NA	F	058996	119.00	01039966	07/07/2014	MTA	MTA001	07/07/2014	07/07/2014			
07/21/2014	07/21/2014	HIR	New Hire	Active	9163	253	PCS	NA	F	058996	119.00	01039966	07/07/2014	MTA	MTA001	07/07/2014	07/07/2014			

Save

Return to Search

Notify

Exhibit B



WOODS DIVISION

1001 22nd Street
San Francisco, CA 94107

London Breed, Mayor

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

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

Jeffrey Tumlin, Director of Transportation

May 9, 2023

Mail # 3113

Skelly Meeting

Rogers, Reginald Jr. [REDACTED]

9163 Transit Operator

SUBJECT: Proposed Recommended Dismissal for Conduct on 3/31/2023

Dear Operator Rogers,

This is to advise you that I am proposing that you be dismissed from your position as a 9163 Transit Operator.

This action is based on the following charges:

San Francisco Municipal Railway Rules and Instructions Handbook

Rule 2 General Rules

Rule 2.1 Application of Rules

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

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

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

Rule 2.8 Conduct

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

Rule 2.8.10 Immoral employees will not be retained in the service.

Rule 2.8.12 Vicious employees will not be retained in the service.

Rule 2.8.17 Employees must not possess a weapon while on duty.



Rule 2.13 Discipline

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

- A. Inattention to Duties;
- D. Immoral Conduct;
- F. Discourteous treatment of the public or other employees of the SF MUNI Railway.

Rule 2.21 Safety

Rule 2.21.15 Employees must be careful to avoid any act or situation that could cause injury to themselves or others.

Rule 2.21.16 Employees must protect their own personal safety, the safety of others, and the safety of equipment and property.

The Facts Upon Which These Charges Are Based

On **March 31, 2023**, Operator Rogers, was assigned to the L- Line on Coach 8748. At approximately 11:34 pm, while at the terminal located at Beach and Jones Street, Operator alighted several passengers. Operator Rogers said to one remaining passenger, "this is the last stop". After a brief exchange of words with the passenger who refused to exit the coach, operator Rogers stepped off the coach thru the rear door. Operator Rogers then turned around and stepped back onto the coach with a pink canister located in his right back. As the passenger was laying across the seats, operator Rogers pass the passenger and he stated, "come on folks get up, get off, I have to use the bathroom." While passing the passenger at from the rear doors, Operator Rogers pepper sprayed the passenger in the face. The passenger began to scream in pain and fell to the floor, while holding his face. Operator Rogers went to the driver's area, as the passenger was rolling on the floor laying in the rear doorway. Operator Rogers then attempted to close the rear doors, but the door would not close due to the passenger laying in the doorway. Then the passenger fell off the coach, onto the ground. Operator Rogers then closed the rear door and drove off. The passenger stumbled onto the street, with one shoe on and the other shoe on the coach and screamed in pain. Operator Rogers left the coach and the passenger in the street screaming. Once Operator Roger returned to the coach, he walked to the driver's side window in the street with no safety vest and got back on the coach leaving the passenger in the street still screaming. Operator Rogers then notified TMC alleging he had some feces on his coach, while waiting on TMC to respond to the call, operator Rogers seen a Lady. She walked over to the passenger to help the passenger who was yelling for help and 911 in the middle of the street. Operator Rogers yelled to the lady "Miss don't help him he may attack you, don't trust him". The passenger then responded, "no I won't, HELP!" While operator Rogers attempted to contact TMC again another passenger approached the coach and wanted to board but was told by operator Rogers "no passengers." After several minutes TMC contacted operator



Rogers and gave him orders to pull in and swap out his coach. As operator Rogers was leaving the terminal a passenger walked up to the coach and is yelled "wait, are you leaving." Operator Rogers answered the passenger in an aggressive tone, "I just told you NO PASSENGERS, this bus is messed up, I got to get another bus." The passenger asked again, "are you going to go or what?" Operator Rogers repeated his statement again and said, "there is going to be another bus coming, calm down." As the passenger is attempting to ask another question, operator Rogers closed the door and drove off.

Operator Rogers arrived at the division at 12:04 am and began to exchange his coach with the yard starter on duty. At approximately 12:49 am, the SFMTA inspectors boarded the coach and was looking for the feces. After a little search they located the feces on the seat where the passenger was sitting. During the search they stated there was some type of spray on the floor. SFPD came to Woods division to review the coach's video. SFPD arrested Operator Rogers while at the division. Operator Rogers called in sick on Monday April 3, 2023, while incarcerated. The SFMTA employee handbook states as follows:

You may not use sick leave for reasons not set forth in this Handbook, the Civil Service Rules, the applicable collective bargaining agreement or other applicable laws. Misuse of sick leave is grounds for discipline, up to and including termination.

The following are examples of proper uses of sick leave:

- Inability to work due to illness or disability;
- Medical and dental appointments;
- Absence due to the death of a member of your immediate family or other persons as defined in the Civil Service Rules;
- Absence due to pregnancy or convalescence period following childbirth;
- Absence due to illness or medical appointment of a dependent child, parent, spouse or registered domestic partner;
- Leave to care for a spouse, parent, child (including an adult child) or next of kin with a serious injury or illness related to active military service;
- Paid parental leave; or
- To supplement Workers' Compensation or State Disability Insurance ("SDI") benefits.

The following are some examples of improper uses of sick leave:

- Calling in sick to extend an approved vacation;
- Using sick leave when your arrival at work is delayed by traffic or car trouble; Claiming you cannot work due to illness, when you are not ill; and
- Using sick leave to cover a period of incarceration.



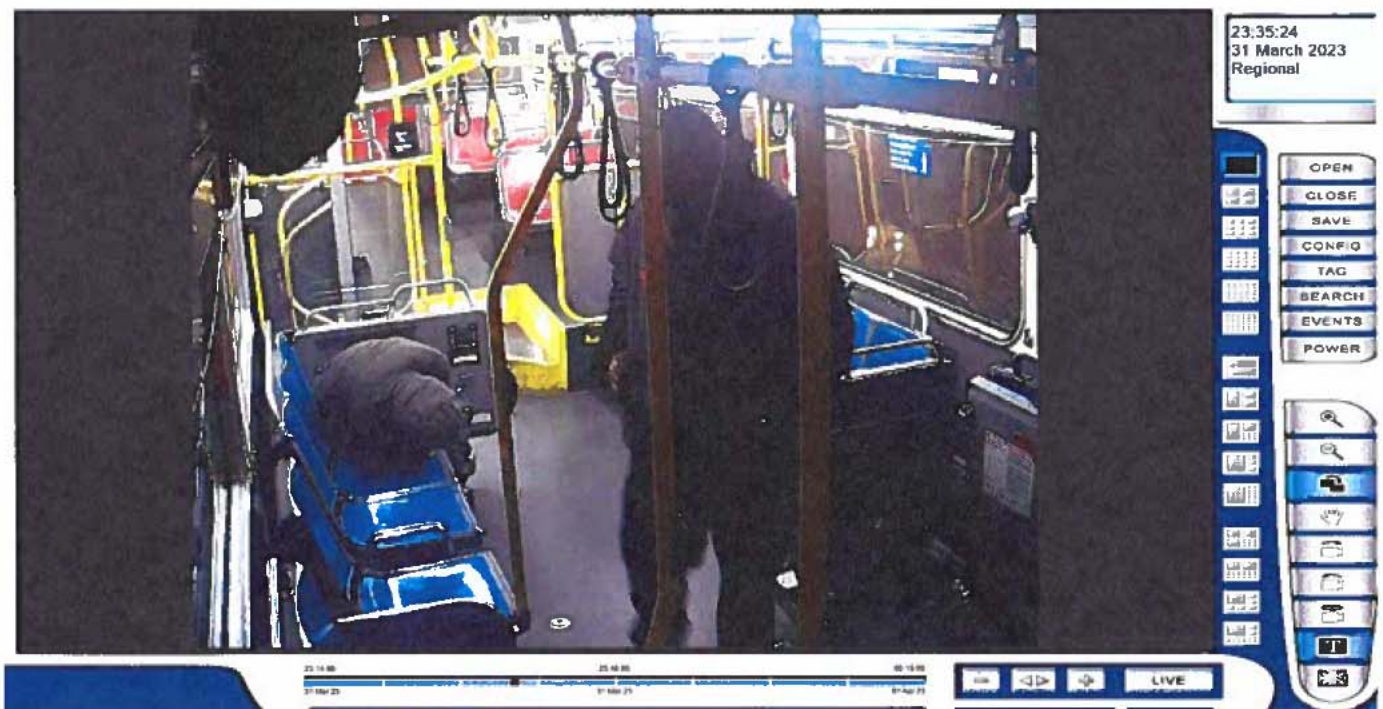
Inquiry/Investigation

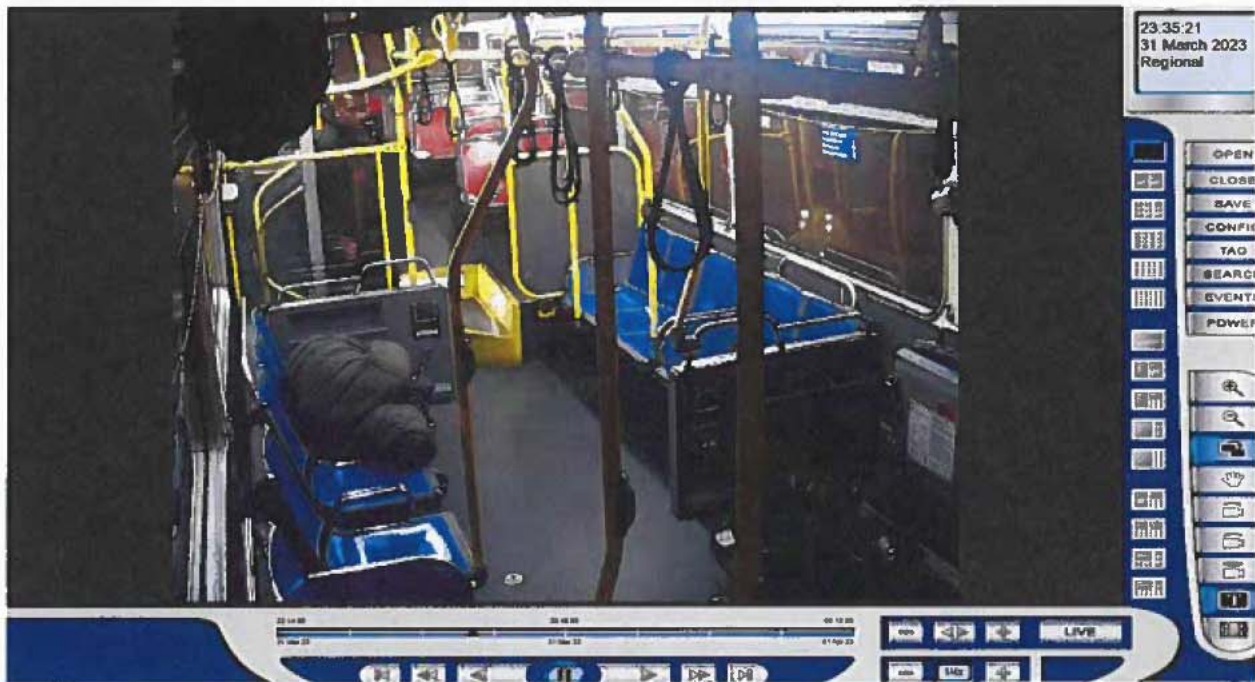
An Investigative Conference was scheduled for Monday, May 1st, 2023, with yourself and your union representatives Karl Cato and Jose Batton. I explained the reason why you were brought into the office for an investigative conference. I asked Operator Rogers did he understand the reason why he was attending the conference. Operator Rogers stated, "I understand however I did not do anything wrong, and I did not pepper spray anyone". That is all I have to say, and I have been instructed not to say anything else.

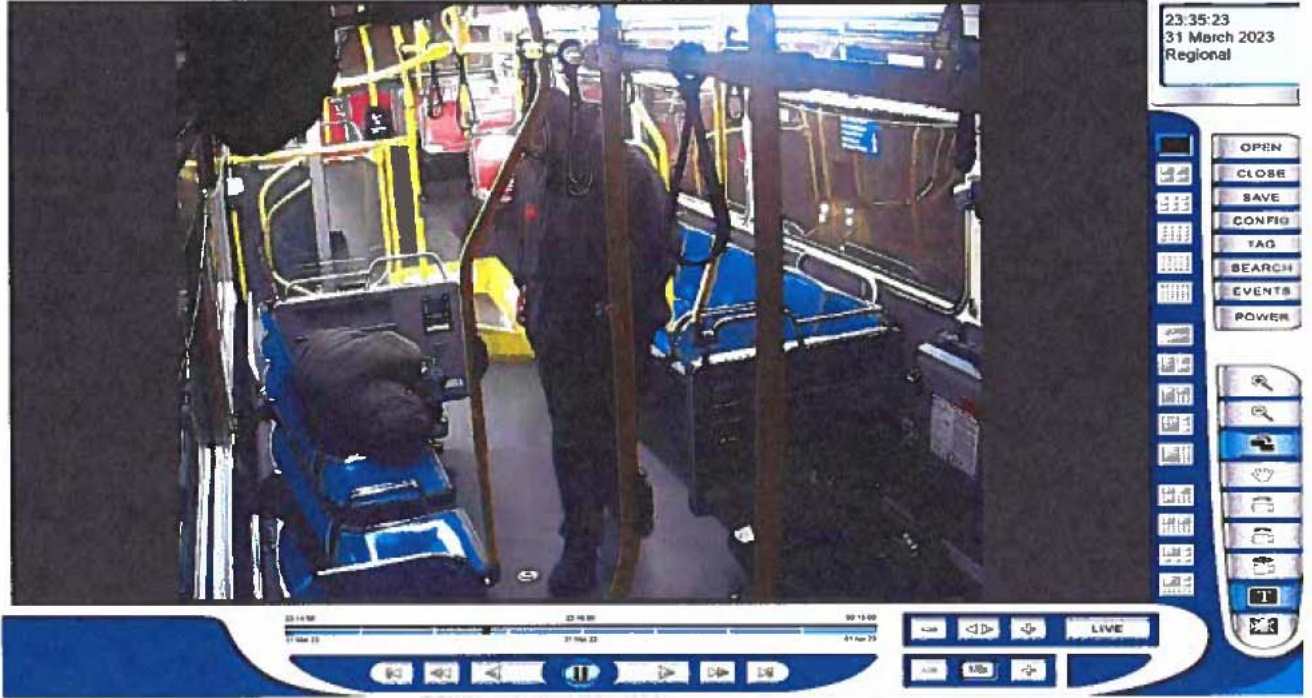
Materials Upon Which Charges are Based.

The following materials, attached hereto, provide the written evidentiary basis for the charges and proposed recommendations:

- Discipline Tracking (Employee History) Records
- On Board Video









Basis for Recommendation/Conclusions

This incident was a result of Operator Rogers not following procedures, while at the terminal needing to use the restroom. While I do understand you needed to take a break you violated conduct rule 2.8 which states, polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. Operator Rogers aggressive and unprofessional behavior towards the passenger does not represent SFMTA's policies or acceptable professional behavior. Your actions were unacceptable and will not be tolerated. It is your responsibility to always maintain professionalism while you are operating a coach and while in uniform. Your delivery to the patron does not meet the standards of SFMTA. Therefore, I am proposing a corrective action of dismissal from your position as a 9163 with SFMTA.

Right of Response

You have the right to provide a response to this proposed recommendation. Your response may be written or oral. **A meeting is scheduled for May 11, 2023, at 8:15 AM at Woods Division.** This stage of the process is your opportunity to respond to the charges and proposed recommended action. This is not a formal hearing and therefore there is no examination of witnesses nor a court reporter or transcript of the process.

You are entitled to bring a representative of your choosing with you to the meeting. Your Union representative is **Karl Cato**.

If you choose to respond in writing, your written response should be directed to **Greg Valentine** and must be received no later than May 11, 2023, at 8:15 AM

If you fail to appear as scheduled or respond in writing, the disciplinary process will proceed.

Sincerely,

A solid black rectangular box redacting the signature of Greg Valentine.

Greg Valentine
Division Assistant Manager
Woods Bus Operations

cc: Labor Relations
Division Union Chairperson
Operator's File

Woods Division Discipline Tracking Form

Rogers, Jr. **Reginald**

Date	Violation	Violation Comment	Action	Action Comment	Rule Violation
1 1/30/2023	Drive Cam - Stop Sign	DC EXLX83434 - rolling stop	5. Written Warning		
2 9/1/2022	CSC - Pass Ups	CSC #661671	2. Conferenced		
3 8/10/2022	CSC - Pass Ups	CSC #647503	2. Conferenced		
4 6/1/2022	AWOL #1 (in 8 months)		6. Suspension	2 DAYS 8/16 8/23	
5 12/1/2021	Cell Phone	12/1/21 - PED Violation, Conduct 12/2/21 - Pass-up, Refusing orders	6. Suspension	10 DAYS Proposed Termination Step 2 Hearing Decision- 10-Day Suspension	
6 8/6/2021	Inattention to Duties	CSC #422764 - left coach running while he went to use the restroom	3. Caution & Reinstruct		
7 6/3/2021	Commendation		Commendation		

Tuesday, May 9, 2023

#Name?

Woods Division Discipline Tracking Form

Rogers, Jr.

Reginald

<i>Date</i>	<i>Violation</i>	<i>Violation Comment</i>	<i>Action</i>	<i>Action Comment</i>	<i>Rule Violation</i>
8/26/2020	Drive Cam - Stop Sign	DriveCam EUPX22404 - failed to stop	6. Suspension	1 DAY 11/13/20	
9/11/22/2018	CSC - Inattentiveness/Negligance	558146	No Action	passup	
10/3/2018	PSR #554722	No Merit	No Merit		
11/4/2018	PSR	Operator asked passenger to leave the Coach.	Cautioned and Reinstucted		
12/25/2017	CSC - Inattentiveness/Negligance	537298	No Action	CSM - 2/20/18; No merit	
13/12/25/2017	CSC - Discourtesy	PSR # 537298	2. Conferenced	CSM - 2/6/18	
14/3/26/2017	CSC - Commendation	PSR #520600	Commendation	issued 4/3/17	

Tuesday, May 9, 2023

#Name?

Woods Division Discipline Tracking Form

[Redacted] **Rogers, Jr.** [Redacted] **Reginald**

<i>Date</i>	<i>Violation</i>	<i>Violation Comment</i>	<i>Action</i>	<i>Action Comment</i>	<i>Rule Violation</i>
15 3/18/2017	Drive Cam - Red Light	#ESND52698	6. Suspension	CSM - 4/4/17 Sk Meeting - 4/12/17: propose 3 day suspension Sk Dec - Sustained	
16 8/17/2016	Incident - Unavoidable/Non-Preventable	vandalism	No Action	NC	
17 3/17/2016	CSC - Commendation	494936	Commendation	issued 1/17/17	
18 3/11/2016	Accident - Unavoidable/Non-Preventable	NP	Determination Letter	Letter - 04/01/16	
19 2/21/2016	Accident - Unavoidable/Non-Preventable	pass/opr verbal altercation	No Action	NC	
20 2/21/2016	CSC - Title VI	Email complaint	3. Caution & Reinstruct	CSM - 02/21/16 CR issued 03/03/16	
21 2/20/2016	Incident - Unavoidable/Non-Preventable	opr/customer argument	No Action	NC	

Tuesday, May 9, 2023

#Name?

Woods Division Discipline Tracking Form

Rogers, Jr.

Reginald

Date	Violation	Violation Comment	Action	Action Comment	Rule Violation
22	2/6/2016	CSC - Conduct	CSC # 492518	3. Caution & Reinstruct	CSC - 03/21/16 CR issued 03/03/16
23	1/22/2016	INCIDENT	CSM - 2/3/16 (Altercation with Liem, Jerry4193)	Conference held - Operator instructed to put in a Miscellaneous Report; Do not approach Co-workers	
24	12/4/2015	INCIDENT	NC	vandalism	
25	12/3/2015	INCIDENT	NC	unruly pass	
26	11/7/2015	RED LIGHT	CSM 11/25/15	5. Written Warning	12/7/15; Reissue - 12/10/15
27	11/7/2015	SPEED	CSM 11/18/15		
28	10/30/2015	INCIDENT	opr/pass verbal altercation	N/C	

Tuesday, May 9, 2023

#Name?

Woods Division Discipline Tracking Form

Rogers, Jr.
Reginald

Date	Violation	Violation Comment	Action	Action Comment	Rule Violation
29 3/22/2015	Preventable Accident	Skelly - 5/5/15 Skelly Dec - 5/6/15 Step 2 - 6/10/15 Step 3 - 8/15/15	6. Suspension	Skelly - propose dismissal Skelly Dec - sustain dismissal Step 2 - grievance denied; dismissed 7/3/15	
30 2/26/2015	PASSENGER SERVICE REPORT	ADA	Hearing	4/8/15 - Neutral Hearing - Referring route question to ... West	

30

Exhibit C



KIRKLAND DIVISION

2301 Stockton Street
San Francisco, CA 94133

May 17, 2023

#23 - 3250

SKELLY DECISION

Rogers, Jr., Reginald [REDACTED]
9163 Transit Operator

SUBJECT: Notice of Recommended Corrective Action – Skelly Hearing Officer Decision

Dear Operator Rogers,

You had a Skelly meeting noticed dated May 9, 2023 proposing that you be **dismissed** from your position as a 9163 Transit Operator for your conduct on March 31, 2023.

Hearing:

A hearing was scheduled for Thursday, May 11, 2023 to discuss this matter. Present during this hearing was Union Representative Jose Batton, Division Manager Monica Collins, and Operator Reginald Rogers, Jr.

Operator’s Comments:

Operator Rogers read a written statement clearly stating he “didn’t tear gas, pepper spray” the passenger and that he had an “emergency tool in [his] hand...in case he was attacked”. Operator’s statement is included in this decision letter as “Attachment #1”. Operator Rogers also stated he was harassed by the passenger throughout the entire trip. Regarding using an aggressive tone with an intending passenger, Operator Rogers stated his doors were closed so he had to speak loudly so the intending passenger could hear him.

Union Representative’s Comments:

Union Representative Batton referred to the video and stated the reaction of the passenger does not reflect the actions or behavior of one being sprayed with pepper spray. Representative Batton also stated Operator Rogers did not close the rear door and drive off after the passenger fell to the ground but secured his coach and proceeded to the restroom.

Hearing Officer’s Comments:

A full review was conducted of documentation included in the Operator Rogers’s Skelly packet, on board video, and the written statement of events from Operator Rogers. Contrary to the written statement from Operator Rogers and statements from both Rogers and Union Representative Batton during the Skelly Meeting, video taken from SFMTA motorcoach #8748 on March 31, 2023, at approximately 11:35pm shows Operator Rogers spray a substance from a pink canister onto a seated



passenger causing him to scream in agony, fall off the vehicle, and beg for help. The onboard video again reveals the aggressive manner Operator Rogers displayed to an intending passenger who was attempting to obtain information regarding service. Operator Rogers's actions violated multiple San Francisco Municipal Railway Rules regarding conduct and safety:

- **2.8 Conduct:** 2.8.1, 2.8.10, 2.8.12, 2.8.17
- **2.21 Safety:** 2.21.15, 2.21.16

Hearing Officer's Decision:

The application of rules states: "All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules and Instruction Handbook" (Rule 2.1.3) and that "Violation of any rule in [the] Rules and Instruction Handbook is sufficient cause for disciplinary action up to and including dismissal" (Rule 2.1.5). Operator Roger's unseemly behavior of spraying a passenger with a substance resulting in injury and the aggressive interaction with an intending customer is not conducive to the mission of the SFMTA which is to provide safe and reliable service. Therefore, the proposal that Operator Reginal Rogers, Jr., #4662 be dismissed from his position as a 9163 Transit Operator is **upheld**.

Right of Appeal:

You may appeal this action within seven (7) days of receiving this notice of Recommended Corrective Action, in accordance with Article 22 of the 2022-2024 MOU between TWU Local 250 – A and the San Francisco Municipal Transportation Agency.

You have the right to be represented in your appeal by your union representative, or another representative of your choice.

This decision will not be implied as a precedent for any pending or future disciplinary action that may be perceived as similar in nature, by either MUNI Management or Union Local 250-A.

Sincerely,



Monica Collins
Kirkland Division Manager

cc. Labor Relations
Local 250A, Roger
Division Union Chairperson
File



ATTACHMENT #1

I want to be clear
~~Let's be clear~~ here I didn't tear gas, pepper spray or whatever the rumors that management put out there. I had an emergency tool in my hand which is not an anyway illegal doesn't spray any substance or anything, it's used for in case you're in a situation where you need to escape a vehicle or situation by cutting the seatbelt or breaking the glass. It's no secret that muni operators are at constant risk of danger, including constant physical and verbal assaults due to the nature of this guy's behavior I had this tool in my hand as a precaution to protect my self just in case I was attacked. No operator should have to endure harrassment, discrimination or feel unsafe while driving.

STATE FROM OPERATOR REGINALD ROGERS JR. = [REDACTED]

[REDACTED] 5/11/23

TO be included with his skelly meetings on 5/11/23

*JOE BATTON
Union Sec.
Woods Division
[REDACTED]*

Exhibit D



TRANSPORT WORKERS UNION, LOCAL 250A
STATEMENT OF GRIEVANCE
Step 1



Employee's Name: **Reginald Rogers Jr** Date: **6/5/23**

Classifier **9163** Cap or Badge #: **[REDACTED]** Division: **WOODS**

Harm/Discipline: **Termination** Date of Skelly Decision: **6/5/23 (Received)**

Reason(s) for Grievance: **The SFMTA is proposing terminal of Operator Rogers based on false claims.**

The SFMTA has no just cause for these charges. There is no evidence.

Video shows nothing other than an argumentative individual who refused to get off the bus at the end of the

Line per SFMTA policy.

(Please see attached)

MOU Violation(s): **19.1, 19.4** **(Please see attached)**

Settlement Desired: **C & R (Reinstruction)**

Signature of Employee
Anthony Ballester For Reginald Rogers Jr.

Signature of Representative
TWU Local 250A President

Management's Response: **SEE ATTACHED**

Management's Explanation:

Date

6/13/2023

DIVISION MANAGER
 Title

ATTACHMENT TO REGINALD ROGERS JR. GRIEVANCE

In the Skelly letter under **The Facts Upon Which These Charges Are Based**, the agency knowingly placed incorrect or misleading information in City and County of San Francisco's official documents. Video evidence does not show a cannister in my hand. Operator Rogers was holding a safety tool. Also, video evidence does not show any type of spray being sprayed on the passenger. Video evidence shows the passenger lying on the seat with the front right side of his face covered on the seat. When said passenger got up, he was holding the right side of his face. It is unlikely for any type of object to contact the right side of the passenger's face. The passenger may have been lying on a substance that irritated his face. The agency also stated, after the passenger fell, Rogers closed the door and drove off. That statement is false. After closing the rear door, Reginald exited the coach and used the restroom. The agency also implied that Rogers was arrested for the incident on the coach. That is misleading. Operator Rogers was detained for a short time due to an unrelated mistaking identity not related to the incident on the coach and then released. The agency also stated that I called in sick while incarcerated. This statement is false, Rogers called from home. The agency was assuming that Rogers was abusing the SFMTA sick policy. The Agency also stated that SFPD was involved in the alleged incident. Agency failed to provide documents or report from SFPD. **(Written materials, reports or documentation)**

MOU Violation

237. The written pre-discipline notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based, the date the proposed disciplinary action would be effective, the scheduled date for the Pre-Discipline Skelly Meeting, which shall be no more than seven (7) working days after SFMTA initiates discipline as described in Section 19.5. If SFMTA alleges that the Operator violated a rule, policy, regulation, or procedure that has been adopted in writing, the rule, policy, regulation or procedure shall be stated in the notice.

238. SFMTA shall attach to the preliminary written notice the **written materials, reports or documentation**, including any public complaints with complainant's contact information redacted, upon which the proposed disciplinary action is based.

Exhibit E



London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Steve Heminger, Director

Fiona Hinze, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

#22 –

To: Reginald Rogers, Jr. [REDACTED]

From: Monica Collins, Kirkland Division Manager

Re: Grievance Response for Conduct on March 31, 2023

Managers Reply:

On June 7, 2023, Union Representative Anthony Ballester submitted a grievance via email on behalf of Reginald Rogers, Jr., requesting to reduce the decision of dismissal to a Caution and Reinstruction for Conduct on March 31, 2023.

Union Representative Anthony Ballester grieves the Agency violated the following sections of the Memorandum of Understanding (MOU) between Transport Worker’s Union, Local 250-A (9163) and San Francisco Municipal Transportation Agency dated July 1, 2022 - June 30, 2024:

**Section 19.1: Discipline
Standards for Discipline Permanent Operators**

226. SFMTA’s Executive Director/CEO or designee may discipline any non- probationary permanent Operator for just cause. In imposing discipline, SFMTA shall act in a fair and equitable manner. Discipline imposed shall be related to the offense committed with due regard for the Operator’s employment record.

Section 19.4 Definition of Discipline and Progressive Discipline Disciplinary Suspension or Discharge

230. “Discipline” shall be defined to include disciplinary suspension without pay, or discharge. Changes in assignment and reassignments made for the purpose of improving service or addressing performance problems shall not constitute discipline and shall not be subject to the grievance procedure in Article 22

Section 19.6 Pre-Discipline Due Process Right

237. The written pre-discipline notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based, the date the proposed disciplinary action would be effective, the scheduled date for the Pre-Discipline Skelly Meeting, which shall be no more than seven (7) working days after SFMTA initiates discipline as described in Section 19.5. If SFMTA alleges that the Operator violated a rule, policy, regulation, or procedure that has been adopted in writing, the rule, policy, regulation or procedure shall be stated in the notice. 238. SFMTA shall attach to the preliminary written notice the written materials, reports or documentation, including any public complaints with complainant’s contact information redacted, upon which the proposed disciplinary action is based.



Operator Rogers's rights were not violated as the Agency has the right to discipline any non-probationary permanent Operator for just cause (MOU Section 19.1). In addition, Operator Rogers's Skelly decision is compliant with the definition of "Discipline" as stated in Section 19.4.

I investigated the "The Statement to Operator Rogers's Grievance" provided by Union Representative Anthony Ballaster on the behalf of Operator Rogers. The Inspector's Incident Narrative of SFMTA Transit Inspector Report No. 35256 indicated San Francisco Police Department (SFPD) Unit #3A13E informed the Inspector on scene that a passenger was pepper sprayed by a Muni Operator, the victim gave a description of Operator Rogers, and that Operator Rogers was apprehended by SFPD (See Attached Inspector report). Operator Roger's attests in his grievance statement he was not arrested and was detained for a short time due to an "unrelated mistak[en] identity not related to the incident on the coach and then released". However, according to incarceration details from the SFPD for Operator Rogers, Operator Rogers was booked on April 1, 2023 at 5:37 am for violation of California Penal Code 225810(g)(1) PC/F which is unlawful use of tear gas. Therefore, according to the Inspector report indicating Operator Rogers's arrest and the booking record, Operator Rogers was in custody with the SFPD at the time he reported sick (see attached sick tag) which is a misuse of sick leave according to the City and County of San Francisco Employee Handbook Sick policy which states:

- You may not use sick leave for reasons not set forth in this Handbook, the Civil Service Rules, the applicable collective bargaining agreement or other applicable laws.
- You may not use sick leave for reasons not set forth in this Handbook, the Civil Service Rules, the applicable collective bargaining agreement or other applicable laws.
- Misuse of sick leave is grounds for discipline, up to and including termination.
- The following are some examples of improper uses of sick leave: Using sick leave to cover a period of incarceration.

Based on the information and evidence provided in the Skelly, the conduct displayed by Operator Rogers (spraying a passenger with pepper spray which resulted in injury) was in violation of the California Penal Code, Municipal Railway Rules and Instructions Handbook, and the City of San Francisco Employee Handbook. The SFMTA may discipline any non-probationary permanent Operator for just cause and discipline imposed shall be related to the offense committed. Therefore, your grievance based on the Agency's violations of Sections 19.1, 19.4, and 19.6 of the Memorandum of Understanding between Transport Workers' Union (TWU), Local 250-A and the San Francisco Municipal Transportation Agency and request to reduce Operator Roger's corrective action of dismissal to caution and reinstruction is denied.

Attachments: Transit Inspector Report No. [REDACTED]
Transit Services Non-Driving Status Report
Incarceration Details from SFPD for Operator Reginal Renwick Rogers
Transit Operator's Sick Leave Report



TRANSIT INSPECTOR REPORT

No. 35256

CONFIDENTIAL TO CITY ATTORNEY

INSPECTOR NAME	Ali Azam	INSPECTOR PHONE #	[REDACTED]
INSPECTOR STAR #	442	INSPECTOR DSW ID #	[REDACTED]

Report Type

Is This a Base Report or a Cover Sheet?	Base Report
---	-------------

Related Inspector Forms

Inspector Form Record No.	CAP ID	DSW ID	Operator/Driver	Division	Vehicle No.
---------------------------	--------	--------	-----------------	----------	-------------

Report Information – Report Details

Record No.	35256	Division	WOODS
Created By	Ali Azam	Date Created	4/1/23 02:56:46
DSW No.	[REDACTED]		

Operator/Driver Involved	Reginald Rogers Jr		
DSW ID	[REDACTED]	CAP ID	[REDACTED]
Driver License No.	B4725025	License Expiration Date	
VTT Expiration Date	12/06/2024	Medical Expiration Date	02/02/2024

Was TMC contacted?	Yes	TMC Incident No.	-140856
Was TMC No. Missing	No		

Report Information – Incident Details

Date and Time of Incident	04/01/2023 00:00:00
Day of the Week of Incident	
Have you verified that the Date and Time of the Incident are correct to the best of your knowledge?	Yes

Incident Type Category	Security	If Collision, Incident Subcategory (Collision with)	
		If Security, Incident Subcategory (Security)	Assault - Passenger
		If Security, Security Group Sub-Type	Potential Hate Crime?
		If Other (Including Falls & Unusual Occurrences)	Incident Subcategory (Other)
		Did the incident involve a fall?	No
Secondary Incident Type Category		Other (Including Falls & Unusual Occurrences)	

Mode	Motor Coach	If Motor Coach or Trolley Coach, Articulated?	No
		If vehicle NOT capable of carrying customers, Type of Vehicle	

CONFIDENTIAL TO CITY ATTORNEY

Incident Start Time	04/01/2023 00:00:00
Vehicle Delay Cleared Time	04/01/2023 01:55:00
Line delay?	
Line Delay Cleared Time	

Operator's/Driver's Version of the Incident	<p>Passenger refusing to get off the coach at the end of the line at Beach and Jones. I told him that I have to go to the bathroom and needs to exit the bus. He started to roll in the seats and then he fell to the ground by the rear door. He then got off the coach and I closed the doors and went to the bathroom. When I came back from the restroom, I noticed feces on the seat and I called TMC. TMC told me to pull the bus in and get another bus.</p>
---	---

Based on evidence reviewed, did the operator/employee violate an SOP or Rule Book rule?	Yes	If Yes	What category does the violation fall under? [Check all that apply]	General Rules
			Was Intersection Control Violated?	No
			Please describe the violation.	<p>2. GENERAL RULES</p> <p>2.1.3 All employees will be held accountable for compliance with all rules in the San Francisco Municipal Railway Rules and Instruction Handbook.</p> <p>2.1.5 Violation of any rule in this Rules and Instructions Handbook is sufficient cause for disciplinary action up to and including dismissal.</p> <p>2.1.7 Adherence to these rules is essential to safety and safety is the primary importance in the performance of duties.</p> <p>2.8 Conduct</p> <p>2.8.1 Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.</p> <p>2.8.10 Immoral employees will not be retained in the service.</p> <p>2.8.12 Vicious employees will not be retained in the service.</p> <p>2.8.17 Employees must not possess a weapon while on duty.</p> <p>2.13 Discipline</p> <p>2.13.1 Violation of any of the following rules will be sufficient cause for charges for disciplinary action</p>

CONFIDENTIAL TO CITY ATTORNEY

				involving suspension or, if appropriate, dismissal. A. Inattention to duties; D. Immoral Conduct; F. Discourteous treatment of the public or other employees of the SF MUNI Railway; 2.21 Safety 2.21.15 Employees must be careful to avoid any act or situation that could cause injury to themselves or others. 2.21.16 Employees must protect their own personal safety, the safety of others, and the safety of equipment and property.
--	--	--	--	---

Was the operator coached?	No		
Further explanation regarding coaching.			
Was the operator / driver returned to duty / service?	No		
Time Inspector received call	00:00:00		
Time Inspector arrived on scene	00:00:00		
Time Inspector went code #713 (scene clear)	00:19:00		

Inspector's Incident Narrative	<p>I was on an assignment to assist an operator on the #8 Line, with a sleeper on the coach. As I was headed towards Kearny and North Point, operator called TMC back and stated the sleeper had exited the coach. As I was in the area of Jones and Beach, I noticed Emergency vehicles, blocking the L-OWL terminal at Jones and Beach. I proceeded towards Jones and Beach and inquired with SFPD unit #3A13E regarding the situation. SFPD unit #3A13E informed me that a passenger was pepper sprayed by a Muni operator. Party #2(African American Male) was laying on the opposite side of the street (North Bound), screaming in pain. Party #2 was screaming that his face was burning and had snot coming from his nose. Party #2 gave a description of the operator to SFPD #3A13E as an African American Male with grey beard. I checked with SFPD as to the time of the call to 911. SFPD informed me the call came in at 23:46. I contacted TMC and inquired if any operator had reported a incident on his/her coach. TMC was not contacted. TMC then assisted me in locating the coach, which had left the terminal around the 23:46 timeframe. Coach #8748 was ordered to pull in the coach, due to feces on the coach. Contacted TMC and informed them to hold the Operator and the coach at Woods Division for an operator interview. In route to Woods Division, I contacted 5M4 to assist me with a video pull from the coach. Upon my arrival at Woods Division yard, operator # [REDACTED] was assigned a new coach and was awaiting my arrival. Coach #8748 was held on track #3/B lot. 5M4 responded to the scene and SFPD unit #3A13E responded to the scene. Per video review it was confirmed that party #2 was assaulted by operator [REDACTED] with Pepper spray at 23:35 hours. Operator [REDACTED] was then apprehended by SFPD. Operator [REDACTED] was also placed on Non-Driving Status. Woods Division dispatcher was notified and provided with the Non Driving status form. Coach #8748 was released back to the yard starters for cleaning and maintenance.</p>
--------------------------------	--

Were photographs taken?	Yes
-------------------------	-----

CONFIDENTIAL TO CITY ATTORNEY

Damage to City Property?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
--------------------------	---

Collision Details (If Incident Type Category is Collision)

Was the collision a hit and run?	
Description of Impact	
SFMTA Vehicle's Action Before Impact [Check all that apply]	
	If Other

SFMTA Vehicle's Action At Impact [Check all that apply]	
	If Other

Due to the impact, the SFMTA vehicle moved approximately (ft)	
---	--

If Mode is Light Rail Vehicle	Did the operator use the emergency brake?	
	Describe any other action taken to avoid collision	

Was the vehicle moved from collision location before supervisor/ inspector arrived?	
---	--

Evacuation Details (If Incident Type Category is Evacuation)

Evacuation Initiated By		If Other	
Evacuation Cause		If Other	
Location Evacuated To		If Other	
Fuel Type			
Evacuation Description			

Report Information – Incident Location Details

Right of Way (ROW) Type	Surface Operations - Non-Exclusive ROW (including Red Lanes)
-------------------------	--

If ROW is Subway Station / Tunnel	Subway Location Type		If Subway Station	
			If Mile Post	
			If Crossover or Pocket / Side Track	
		Was there a subway signal present?	If Yes, Please describe the signal that was present.	

If ROW is NOT Subway	Surface Location Type	Between Intersections	If Intersection	On	
				At	
			If Between Intersections	On for Intersection #1	JONES ST
				At for Intersection #1	BEACH ST

CONFIDENTIAL TO CITY ATTORNEY

Station / Tunnel		On for Intersection #2	JONES ST
		At for Intersection #2	JEFFERSON ST
		Near side or Far side?	Near Side - Intersection #1
		If Yard / Storage or Maintenance Facility	
		If Other Location/Address	
Traffic Control	No Traffic Control		If Signal Control
Did the incident occur at a transit stop or station?			Yes

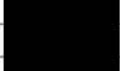

If a Rail Vehicle	Did the incident occur when the operator was approaching or going over a switch?	If Yes	Switch Signal Control	
			Describe the type and alignment of the switch and other details related to the switch.	

Additional Location Detail	
----------------------------	--

Report Information – Operator/Driver Details

First Name	Reginald	Last Name	Rogers Jr
Email Contact			
Phone No.			

Are they classified as a "9163 – Transit Operator"?	Yes
If Yes, Operator's Division	WOODS

DSW ID		CAP ID	
Are there any comments or edits regarding the Operator/Driver Details on the Operator/Driver form?		If Yes, Please specify.	

If a 9163 – Transit Operator	Was the operator working their regular work assignment or run?	No
	Was the operator on the extra board or floating extra board?	Yes
	Was the operator working on their RDO?	No
If Not a 9163 – Transit Operator	Employee's Work Site/Division	

Report Information – SFMTA Vehicle Details

If Mode is Capable of Carrying Customers	Vehicle's Division	Woods
	Run No.	278
	Line No.	LOWL (L OWL TARAVAL)
	Direction	Outbound

CONFIDENTIAL TO CITY ATTORNEY

Revenue Collecting Vehicle No.	8748 - New Flyer 40ft Motor Coach		
Nos. of Additional Vehicles in Consist (If Applicable)			
Have you verified that the Run, Line, Direction, and Vehicle Number are correct to the best of your knowledge?	Yes		
Vehicle Manufacturer	New Flyer 40 SR1794 10/13 BAE		

If Mode is NOT Capable of Carrying Customers	Non-Revenue Vehicle No.	
	Non-Revenue Vehicle Make	
	Non-Revenue Vehicle Model	
	Non-Revenue Vehicle VIN	
	Non-Revenue Vehicle License Plate No.	

Vehicle Action At Time of Incident (Not Collisions) [Check all that apply]	Other	
	If Other:	Coach #8748 had pulled in to Woods Division yard per TMC instructions, due to feces on the coach.

Which geographical direction was the vehicle facing at the time of the incident?	South
Approximate Vehicle Speed at Time of Incident (mph)	0

Was there any damage to the vehicle?	No
If Yes, Describe the damage	

Report Information - Injury Details

Was the operator / driver injured?	No	If Yes	Injury Instructions	If the employee is injured, please instruct employee to submit a Workers' Compensation claim report.
			If Yes, Injury Type	
Were other people injured?				Yes
Was ambulance called?				Yes
Count of Fatalities	0		Count of Injured Parties Transported to Hospital	1

Report Information - Hold Instructions

Was vehicle placed on hold?	No	If Yes	Hold Instructions		If Other	
			Placed on Hold By [Check all that apply]		If Other	
					If Yes	Name of Employee
					Division of Employee	

CONFIDENTIAL TO CITY ATTORNEY

			Placed on hold by an employee?	If No	Name of Person
			Contact No. Of Person Who Put the Hold		

Was the video pull requested?	Yes	If Yes	Video Pull Instructions	Pull and Release to Woods Division Superintendent
			Video Pull Requested By	Ali Azam
			Division of Employee Who Requested the Video Pull	TRANSIT SVC DIVISION
			Video Pull Requester's Contact No.	[REDACTED]

Other Instructions

Additional Document Attachments

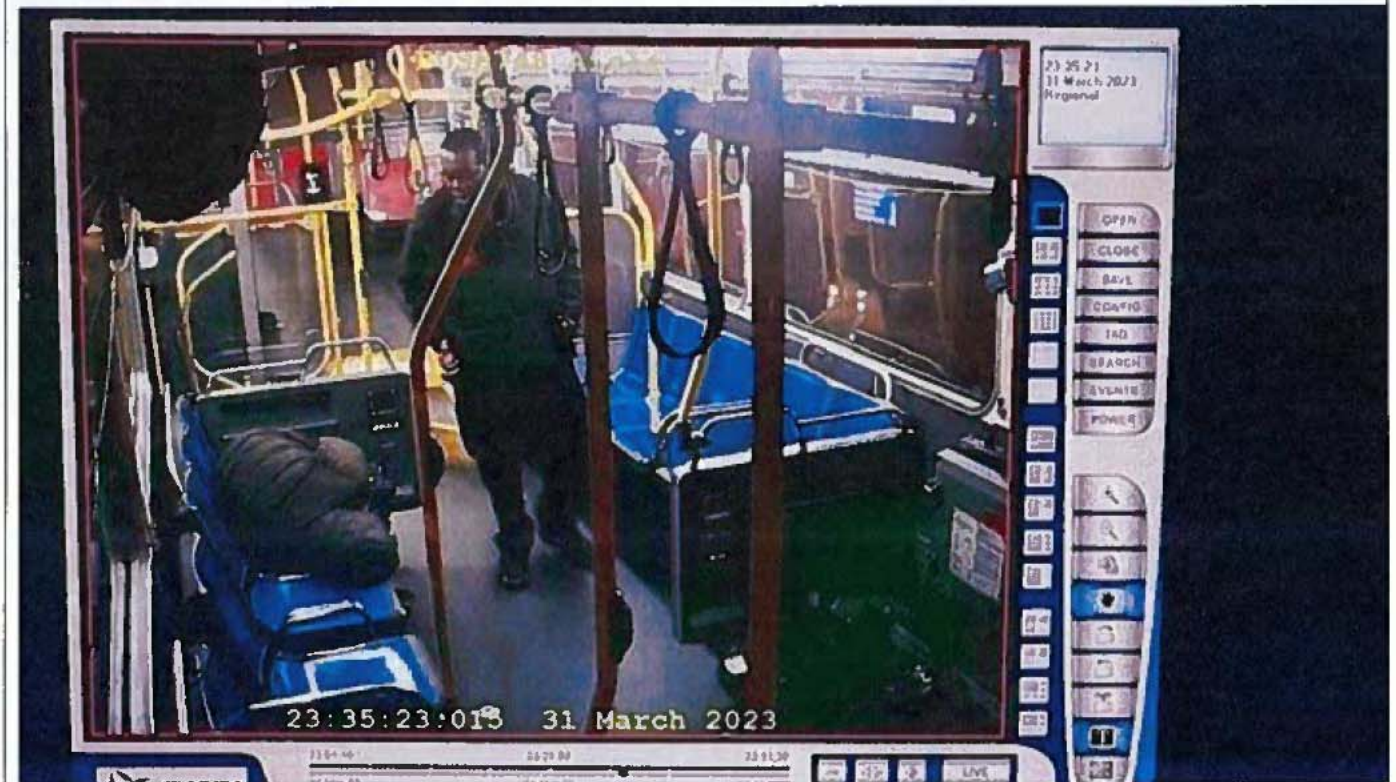


#4662 (1) 04-01-2023.jpg

CONFIDENTIAL TO CITY ATTORNEY



#4662 (2) 04-01-2023.jpg



#4662 (4) 04-01-2023.jpg

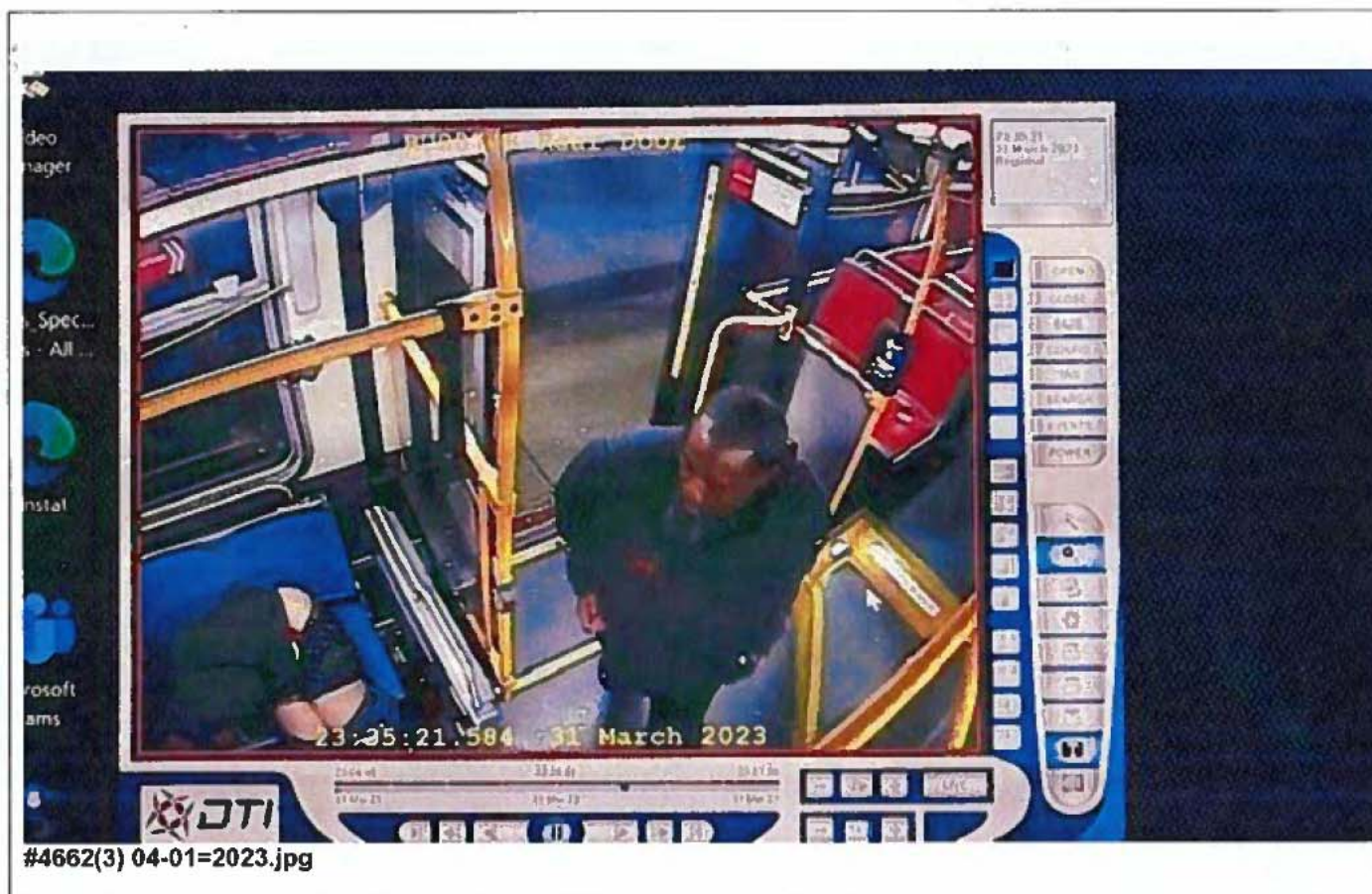


#4662 (5) 04-01-2023.jpg



#4662 (6) 04-01-2023.jpg

CONFIDENTIAL TO CITY ATTORNEY



Person Involved - Person Details

Incident Record No	Transit Inspector Report - Record No. 35256	Record No	9495
Created By	Ali Azam	Date Created	4/1/23 03:08:04

Was the person inside/on or outside a vehicle?	Inside/On	If Inside/On, Person Type	If Other	
		If Outside, Person Type	If Not Driver/ Passenger of Another Vehicle (Outside of Vehicle) OR Bicyclist, Pedestrian Action [Check all that apply]	
			If Other	

Was person an	Unknown	If Yes, Employee		
		If Not Yes	First Name	Jacob
			Last Name	St. John

CONFIDENTIAL TO CITY ATTORNEY

SFMTA Employee?		Gender Identity Sex	Man/Boy
		Driver License No.	
		Driver State	

Date of Birth		Age Range	Adult (19 to 60)
Address			
Phone No.		What phone is this (mobile, home, and/or work phone)?	
Email			
Statement from Person	Passenger was being tended to by SFPD and was unavailable for interview.		

Person Involved – Passenger Details (If Person Type is Passenger of SFMTA Vehicle)

Was the passenger using ambulatory devices (e.g. cane or chair)?		No		
Passenger Location in Transit Vehicle		Center		
Passenger Action		Sitting		
Did the passenger fall while boarding or alighting?	No	If Yes to either passenger fall question	Type of Heel on Passenger's Shoes	
			Were steps OK?	
			How far were the steps from the curb/landing in inches?	
			Were the vehicle steps slippery?	
			Was the vehicle floor slippery?	
			Was there debris on the vehicle floor?	
			Was the vehicle full?	
Did the passenger fall on board?	No	If Yes to either passenger fall question	Did the passenger appear to be under the influence?	If Yes, What led to your determination of whether or not the passenger appeared to be under the influence?
			Was the passenger carrying a parcel or object?	
			Passenger able to walk away?	
			Additional Information about the fall	

Person Involved Additional Details Section

Was anyone with the person?	No	If Yes, Who?	
Additional Information			

Additional Document Attachments

CONFIDENTIAL TO CITY ATTORNEY

Injury – Injury Details

Created By	Ali Azam	Date Created	4/1/23 04:11:16
Incident Record No	Transit Inspector Report - Record No. 35256	Record No	1460

Person Involved	Person Involved Record No. 9495		
Injury Type at Scene	Transported to Hospital	If Transported to Hospital, where was injured party transported to?	St. Francis Hospital
Paramedic Unit No.	SFFD unit #66		
What did the injured party say?	Party #2 was screaming that his face was burning and he got pepper sprayed		
Injury Description	Face was burning		

Additional Document Attachments

Emergency/Incident Response

Created By	Ali Azam	Date Created	4/1/23 03:10:26
Record No	14328		

Emergency/ Incident Responder Type	San Francisco Police Department
------------------------------------	---------------------------------

If Emergency/ Incident Responder Type Is NOT Muni Peer Assistance	First Name	Unknown		
	Last Name	Manzoni		
	Unit No.	3A13E		
	Badge No.	2458		
	Star No.			
	Case No.	230224797		
	Report No.			
	Time of Arrived on Scene	04/01/2023 00:00:00		
	Was a citation issued?	Unkn wn	If Yes	To Whom? [Check All That Apply]
				Citation No. (if known)
Other Emergency / Incident Responder Info				

Additional Document Attachments

Emergency/Incident Response

CONFIDENTIAL TO CITY ATTORNEY

Created By	Ali Azam	Date Created	4/1/23 03:10:51
Record No	14329		

Emergency/ Incident Responder Type	San Francisco Fire Department
------------------------------------	-------------------------------

If Emergency/ Incident Responder Type Is NOT Muni Peer Assistance	First Name			
	Last Name			
	Unit No.	E2		
	Badge No.			
	Star No.			
	Case No.			
	Report No.			
	Time of Arrived on Scene	04/01/2023 00:00:00		
	Was a citation issued?		If Yes	To Whom? [Check All That Apply]
				Citation No. (if known)
Other Emergency / Incident Responder Info				

Additional Document Attachments

Emergency/Incident Response

Created By	Ali Azam	Date Created	4/1/23 03:11:14
Record No	14330		

Emergency/ Incident Responder Type	Medical Responder
------------------------------------	-------------------

If Emergency/ Incident Responder Type Is NOT Muni Peer Assistance	First Name			
	Last Name			
	Unit No.	SFFD unit #66		
	Badge No.			
	Star No.			
	Case No.			
	Report No.			
	Time of Arrived on Scene	04/01/2023 00:00:00		
	Was a citation issued?		If Yes	To Whom? [Check All That Apply]
				Citation No. (if known)

CONFIDENTIAL TO CITY ATTORNEY

Other Emergency / Incident Responder Info

Additional Document Attachments

Emergency/Incident Response

Created By	Ali Azam	Date Created	4/1/23 03:39:29
Record No	14331		

Emergency/ Incident Responder Type	Muni Management
------------------------------------	-----------------

If Emergency/ Incident Responder Type Is NOT Muni Peer Assistance	First Name	Ben		
	Last Name	Chan		
	Unit No.	5M4		
	Badge No.			
	Star No.	250		
	Case No.			
	Report No.			
	Time of Arrived on Scene	04/01/2023 00:00:00		
	Was a citation issued?		If Yes	To Whom? [Check All That Apply]
				Citation No. (if known)
Other Emergency / Incident Responder Info				

Additional Document Attachments

Decision for Post-Accident Drug and Alcohol Testing Form

General Information

Created By	Ali Azam	Date Created	4/1/23 04:09:19
Record No	3926		

Accident Date	04/01/2023	Accident Time	00:00
Operator First Name	Reginald	Operator Last Name	Rogers Jr
Operator DSW No.		Operator CAP ID	
Location	On INDIANA ST at 22ND ST		

CONFIDENTIAL TO CITY ATTORNEY

1. Did this accident involve a fatality?		No
2. Was there an injury for which a person was transported for medical treatment away from the scene?		Yes
3. Was there disabling damage* to any vehicle involved in the accident (including non-MUNI vehicles)?		No
4. If the accident involved a rail vehicle (LRV, streetcar, trolley, cable car), was it removed from service (even if in yard)?		No
5. Could any other safety-sensitive employee have contributed to the accident (e.g. Mechanic, Inspector)?	No	If Yes, Explain
6. Can the driver's performance be completely discounted as a contributing factor to the collision?	No	If Yes, Explain

*Disabling damage means an involved vehicle was towed or could not be driven in a normal manner from the scene in daylight after simple repairs or would have been further damaged if so driven. "Disabling damage" does not include:

- Damage that can be remedied temporarily at the scene without special tools or parts.
- Tire failure, even if no spare tire is available.
- Damage to headlights, tail lights, turn signals, horn, or windshield wipers that make them inoperative.

Comments	Operator assaulted a passenger. Operator was Apprehended by SFPD
----------	---

Decision for Post-Accident Drug and Alcohol Testing

Is testing required?	Yes
----------------------	------------

(If testing is required, read the following paragraph and the appropriate sections below to the employee.)

Because you have been involved in an accident or occurrence which has been determined by management to have met the Federal Transportation Administration (FTA) criteria requiring post-accident drug and alcohol testing or reasonable suspicion drug and/or alcohol testing, you are hereby advised of the following information:

If you refuse to take the required drug and alcohol tests or if you attempt to adulterate your urine specimen, you will be immediately relieved from duty, pending filing of charges for your dismissal from the SFMTA and will be instructed to report to your superintendent or manager on the date and time indicated below. According to FTA regulations, a refusal to test is considered a positive test and appropriate disciplinary action will be initiated.

If other employees were involved in the incident, please create additional "Decision for Post-Accident Drug and Alcohol Testing" forms for other employees as well.

Was testing performed?	No	Why was testing not performed?	Operator was apprehended by SFPD unit #3A13E
Date and Time of Breath Alcohol Test			
Elapsed Time Between Time of Accident and Alcohol Testing (Hours)	0.00	Why was testing not performed within two (2) hours after accident?	
		Why was testing not performed within eight (8) hours after accident?	

Date and Time of Drug Test			
Elapsed Time Between Time of Accident and Drug Testing (Hours)	0.00	Why was drug testing not performed within 32 hours after accident?	

Additional Document Attachments

CONFIDENTIAL TO CITY ATTORNEY

CONFIDENTIAL TO CITY ATTORNEY

Signature Page


Submitted By:			
Submitter Signature:		Date Submitted:	

Approved By:			
Approver Signature:		Date Approved:	



Transit Services: Non-Driving Status Report

Manager / Inspector: AZAM, ALI

Run: <u>2178</u>	Line: <u>L-OWL</u>	Vehicle: <u>8748</u>	Day: <u>FRIDAY</u>	Date: <u>3-31-2023</u>	
Subject: <u>Operator relieved from duty and placed on non-driving status</u>					
Operator Name: <u>REGINALD, ROGERS JR.</u>		C: 			
Location: <u>JONES AND BEACH</u>			Direction: <u>SOUTH BOUND</u>		
Delay:	<input type="checkbox"/> Line	<input type="checkbox"/> Vehicle	<input type="checkbox"/> None	Time From: <u>00:00</u> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Time To: <u>1:55</u> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM

Instructions:

You are relieved from duty and placed on Non-Driving Status effective immediately.

You are instructed to report to your Division Superintendent on:

Day: _____ Date: _____ Time: _____

Or

You are instructed to call Central Control (OCC) or Transit Management Center (TMC) upon being discharged from the hospital.

If the operator was transported to the hospital, this section is applicable Yes No

Acknowledgement (in understanding the instruction(s) above):

Operator's Name (printed): REGINALD, ROGERS JR

Operator's Signature: _____ Cap ID: 4662

Witnessed by Inspector:  Star No: _____

Dispatcher's Acknowledgment: 

Reason Operator was placed on Non Driving Status:

PASSENGER ASSAULTED BY OPERATOR

Inspector's Signature:  Manager's Signature: 

Original Copy: Transit Services Copy: Station Supt. 3rd Copy: Employee

Incarceration Details from 850 Bryant for Operator Rogers on 4/1/2023

ROGERS REGINALD RENWI

Located in COUNTY JAIL 2

SFNO Number	Booked on	Next court date
Booking Number	Total Bond	Court Department

Docket Number	Statute	Description	Charge disposition	Attempt	Scheduled release date
		USE OF TEAR GAS OR TEAR	n/a	n/a	Not set



TRANSIT OPERATOR'S
SICK LEAVE REPORT

OPR: Reginald, Rogers
ADDRESS: _____ PHONE: (_____)
CITY: _____ ZIP: _____

DIVISION: Woods

RUN #: 278
BLOCK #: _____
EXTRA BOARD: (_____)
"FEB" - DIV: _____
RDO: S/S



ID#

OFF

REPORTED OFF SICK AT: _____ AM PM
ON: _____
TO COMMENCE WORK ON: _____
RECEIVED BY: _____ CLASS: _____

ON

REPORTED SICK AT: 155 AM PM
ON: 4-1-23
TO COMMENCE ON: 4-1-23
RECEIVED BY: D Armstrong CLASS: 9139

REMARKS:

L.O.W. 3-31-23
TOTAL DAYS OFF SICK _____
DOCTOR'S SUP REQ.
SICK-TO-SICK
TYPE SICK NDS

D-247R
3-87

Exhibit F



TRANSPORT WORKERS UNION OF AMERICA

LOCAL 250A AFL-CIO
1508 FILLMORE ST. #211 ~ SAN FRANCISCO, CA. 94115
(415) 922-9495 www.twusf.org

ANTHONY BALLESTER
PRESIDENT

PETER WILSON
EXECUTIVE VICE PRESIDENT

MICHAEL DENNIS
SECRETARY TREASURER

VERTRINA Z. DAVIS
RECORDING SECRETARY

VICE PRESIDENTS
ROBERT M. GAINER
KARL CATO
LAN LAU

EXECUTIVE BOARD
THERESA KING
KEVIN DAVIS
JUAN COLEMAN
EVA CHAU
LYLE BAGGAO
WALTER CORTEZ

June 22, 2023

157-23-WD

San Francisco Municipal Transportation Agency
1 South Van Ness
San Francisco, CA 94103

Dear Employee Relations,

We are requesting a Step-2 hearing for Reginald Rogers, Cap 4662 regarding a decision undated.

Management did not address 19.1 or 19.4. 19.1 speaks to due process. Due process has to do with due diligence on a proper investigation. Progressive discipline should be followed. We disagree manager's proposed termination.


Sincerely, 
Pete Wilson
Executive Vice President
TWU Local 250A

Exhibit G



London Breed, Mayor

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

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

Jeffrey Tumlin, Director of Transportation

August 16, 2023

Via email: discipline@twusf.org
pwilson@twusf.org

Pete Wilson, Vice-President
1508 Fillmore Street, Suite 211
San Francisco, CA 94115

Re: Step 2 Decision for Reginald Rogers [REDACTED] Grievance #157-23-WD

Statement of the Grievance

On June 22, 2023, the Transport Workers Union Local 250A (Union) requested that the San Francisco Municipal Transportation Agency (Agency) hear its grievance at Step 2. The Union’s grievance arises from a dismissal proposed by the Agency in its charging letter dated May 9, 2023 (Skelly Notice). The Agency charges Reginald Rogers Jr #4662 (Operator) with misconduct on March 31, 2023. Specifically, the Operator is charged with violating rules 2.1.3, 2.1.5, 2.1.7, 2.8.1, 2.8.10, 2.8.12, 2.8.17, 2.13.1, 2.21.15, and 2.21.16, found in the San Francisco Municipal Railway Rules and Instruction Handbook (Handbook).

In its grievance, the Union states that imposing a dismissal violates the Memorandum of Understanding by and between the Agency and the Union (MOU), specifically Section 19.1, 19.4, and 19.6. As a remedy, the Union requests the Agency reduce the dismissal to a caution and reinstruct. On August 2, 2023, the Agency held a Step 2 hearing via Microsoft Teams Meeting to discuss the grievance. The Agency articulates its Step 2 response below.

Present at the hearing were:

- Reginald Rogers, Grievant, 9163 Operator, TWU Local 250A
- Karl Kato, Woods Chairperson, TWU Local 250A
- Pete Wilson, Executive Vice President, TWU Local 250A
- Greg Valentine, Woods Asst Division Manager
- Milyn Sanchez, Labor Relations Analyst

Background

On March 31, 2023, while operating coach 8748 on the L-Line at approximately 11:34 PM, Operator Rogers alighted several passengers. Operator Rogers said to one remaining passenger, “This is the last stop.” After briefly exchanging words with the passenger who refused to exit the coach, Operator Rogers stepped off the coach through the rear door. Operator Rogers then turned around and stepped back on the coach with a pink canister in his right hand. The passenger was lying across the seats. Operator Rogers passed the passenger and said “Come on folks, get up, get off. I have to use the bathroom.” Then, Operator Rogers pepper-sprayed the passenger in the face as he moved passed him upon re-entering the coach. The passenger

began screaming in pain and fell to the floor, holding his face before falling out of the coach and onto the ground.

Afterward, Operator Rogers called into the Transit Management Center (TMC) and said there was feces on the coach. The Operator while waiting for TMC to respond, saw a woman walking over to the passenger yelling for help and call 911 in the middle of the street. Operator Rogers yelled to the woman, "Miss, don't help him. He may attack you. Don't trust him." The passenger said "No, I won't. Help!" Operator Rogers continued to wait for instructions from the TMC.

Then, another intending passenger approached the coach, and Operator Rogers said, "No passengers." The TMC finally gave Operator Rogers instructions to pull in and swap out his coach. As Operator Rogers left the terminal, the intending passenger walked up and yelled, "Wait, are you leaving?" Operator Rogers replied, "I just told you no passengers. This bus is messed up. I got to get another bus." The passenger asked again, "Are you going to go or what?" Operator Rogers repeated himself and then said, "There is going to be another bus coming. Calm down." The passenger tried asking another question before Operator Rogers closed the door and drove off.

Operator Rogers arrived at the division yard at 12:04 AM and began to exchange his coach with the yard starter on duty. At approximately 12:49 AM, the SFMTA inspectors boarded the coach to find feces that Rogers reported to the TMC. Investigators discovered the feces on the seat where the passenger was sitting and noticed spray on the floor.

Shortly afterward, the San Francisco Police Department (SFPD) arrived at the Woods Division, reviewed the coach's video and arrested Operator Rogers. Rogers was incarcerated from Operator Rogers called in sick Monday, April 3, 2023, while incarcerated.

On May 1, 2023, Greg Valentine, Union Representatives Jose Batton and Karl Cato, and the Operator were present at the Investigative Conference. Greg Valentine explained the meeting's purpose. Operator Rogers said, "I understand however, I did not do anything wrong, and I did not pepper spray anyone. That is all I have to say, and I have been instructed not to say anything else".

The Agency recommends a dismissal in its Skelly Notice dated May 9, 2023. The Skelly Notice informs the Operator about the Skelly meeting date and his right to representation. Skelly Officer Monica Collins held the Skelly meeting on May 9, 2023, and issued her decision to sustain Operator Roger's dismissal on May 17, 2023.

Meeting

- The Union believes the Agency should take into account 19.1 due to the Operators record
- The Union stated that a police report wasn't included in the original packet
- The Union suggests that there is no evidence that the passenger was pepper-sprayed
- The Union suggests a caution and reinstruct.

Analysis

In determining cause, the Agency must prove a violation of reasonable rules and that the discipline imposed is proportionate to the wrong.

The Division manager received a Transit Inspector Report from Ali Azam that includes details of an assault on a passenger by a Transit Operator Rogers. The purpose of the investigation was to determine whether the allegations were true, whether policies were violated, and what action should be taken based on the findings. The investigative conference determines if there is cause and recommends appropriate action.

The Transit Inspector Report indicates that SFPD Unit #3A13E informed the Transit Inspector that a passenger was pepper sprayed by a Muni Operator. The Transit Inspector contacted TMC to inquire if any operator had reported an incident on their coach. Coach 8748 was ordered to pull in the coach because it was contaminated with feces. Transit Services pulled the video and confirmed that the passenger was assaulted by the Operator 4662 with pepper spray at 23:35. SFPD arrested the Operator. Transit Inspector Ali Azam placed the Operator on Non-Driving Status (NDS).

Management attached a copy of the Transit Inspector's Report and an "Incarceration Detail" to the Skelly packet. These documents confirm that SFPD booked Operator Rogers into jail on April 1, 2023, at 5:37AM.

Under a preponderance of evidence standard, I determined that it is more likely than not that Operator Rogers assaulted a passenger by spraying pepper-spray or another substance that physically aggravated the passengers. The evidence includes a reliable police report, investigator's observation that something was sprayed on the floor, and coach video that shows the passenger in complete aggravation before he fell out of the coach doors. Therefore, the Agency has sufficient evidence to charge Rogers with violating the Handbook rules as outlined in the charging letter, and the City's Policy Prohibiting Employee Violence in the Workplace, which states:

The City and County of San Francisco (CCSF) is committed to maintaining a workplace free from violence and threats of violence and will not tolerate any acts or threats of violence in the workplace. Any act or threat of violence in the workplace is strictly prohibited... Failure to comply with these policies may result in employee discipline up to and including termination as well as criminal prosecution.

The evidence supports the dismissal recommendation and management correctly exercised discretion in determining the appropriate discipline for this instance of egregious misconduct. The Agency complied with its policies, specifically the excerpt below. Management's actions are consistent with this and other policies.

The City will not tolerate Disrespectful Behavior in any City workplace and seeks to intervene at the earliest sign or state of Disrespectful Behavior in misconduct and prevent its recurrence. Any employee or officer who violates this policy will be subject to disciplinary actions up to and including termination.

Conclusion

The Agency followed its policies in response to allegations and confirmed that the Operator assaulted a passenger using pepper spray. Therefore, the grievance is denied, and the dismissal is upheld.

Recommended by:



Milyn Sanchez
Step 2 Hearing Officer

Approved by:



David Garcia
Labor Relations Manager

Cc: Reginald Rogers, Grievant
Karl Cato, Woods Division Chairperson, TWU Local 250A
Pete Wilson, Executive Vice President, TWU Local 250A
Aleta Washington-Williams/Greg Valentine, Woods Division Management
Leda Rozier/Ammee Alvior, Transit Management
HR-ELR
Chron File

Exhibit H



London Breed, Mayor

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

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

Jeffrey Tumlin, Director of Transportation

Via U.S. Certified and First-Class Mail 7021 2720 0003 2390 4439 / Via E-Mail

[Redacted]

August 22, 2023

Reginald R Rogers Jr

[Redacted]

Re: Notice of Dismissal from PCS Appointment – 9163 Transit Operator

Dear Reginald R Rogers Jr,

In her decision dated August 15 ,2023, the Step 2 Officer, Milyn Sanchez upheld the proposed dismissal from you position, Transit Operator, Job Code 9163, as proposed by the division.

After a thorough review of all the facts and Milyn Sanchez’s decision, it is my decision to dismiss you from your permanent position.

This letter is to notify you that you are being dismissed from your permanent civil service appointment as a Transit Operator, Job code 9163, with the San Francisco Municipal Transportation Agency (SFMTA), effective August 22, 2023.

The SFMTA is recommending to the Civil Service Commission that your future employment be restricted as follows:

- No future employment with the City & County of San Francisco
- Cancel any current examination and eligibility status

For information regarding continuation of health benefits you may be covered, please contact Health Services System (HSS) Membership Division at 415-554-1750.

If you have any questions regarding this matter, please contact Employee & Labor Relations at HR-ELR@sfmta.com

Sincerely,

[Redacted Signature]

Shana Dines
Employee and Labor Relations Manager

Attachments: Separation Report, Notice of Future Employment Restrictions, Skelly Decision

cc: Leda Rozier/Ammee Alviar, Transit Division
Aleta Washinton-Williams, Woods Division
David Garcia, Labor Relations
Nicolle Lewis, Payroll Operations, Payroll



Valerie Coleman/Brian Lim/Ruby Liu, Employee Services
Peter Rosel, Client Services, DHR
Personnel File



SEPARATION REPORT

INSTRUCTIONS: Please complete the Separation Report to:

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

Date of Request: 8/22/2023

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

SECTION I: PERSONAL AND JOB INFORMATION

Name (Last, First, M.I.): Rogers JR, Reginald Employee I.D. [REDACTED]

Job Code: 9163 Job [REDACTED] Transit Operator

Position Number [REDACTED] Hourly Rate: [REDACTED] Step: 4 Effective Date: 8/22/2023

Empl. Class: PCS Work Schedule: Full-Time

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

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

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

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

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

SECTION II: SEPARATION INFORMATION

Resignation

Satisfactory Services (TER_RSS)

Unsatisfactory Services (TER_RUS)
(Form DHR 1-13 must be on file)

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

Employee Signature _____

Date _____

Lay-off

Involuntary Leave (PCS_LIL)

Elective Involuntary Leave (PCS_EIL)

Involuntary Lay-off (PCS_LIO)

Voluntary Lay-off (PCS_LVO)

(PV & EX Only): (Select One)

Reason for lay-off: (Select One)

Employee acknowledges receipt of the DHR information leaflet.

Employee Signature _____

Date _____

SEPARATION REPORT

DEPARTMENT USE ONLY

Termination

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

Release from appointment:

Release from probation:

Dismissal:

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

Automatic Resignation (ARS)

Never Reported to Work (DSH)

Death of an employee (DEA)

Other (Specify): _____

Retirement:

DEPARTMENT CERTIFICATION

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



Appointing Officer/Authorized Designee Signature

Telephone

Name/Title: Shana Dines - Employee & Labor Relations Manager

Department Number: 68 Department Name: SFMTA Human Resources

Personnel File Forwarded? Yes No

Forwarded to:

Department: _____ Contact: _____

DHR USE ONLY

Action Pending? Yes No

Analyst Name

Telephone

SR Ref Number: _____ Holdover Canvass: _____

Reference Number used for layoff actions: _____



NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS

Reginald R Rogers JR
 Employee Name

 Street Address

 _____ CA _____
 City State Zip

8/22/2023
 Mailing Date

 MTA
 Department/Division

 PCS
 Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 9163 Title Transit Operator, effective 8/22/2023, for the reasons outlined in the attached document(s).

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

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

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





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

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

Future Employment Restrictions	Description:	Level of Measurement:	Measurement Value:
001: Vehicle/Heavy Machinery			
002: Vulnerable Populations			
003: Face to Face Contact w/Public			
004: Contact w/Animals			
005: Signing/Approving City Docs			
006: Financial Instruments			
007: Confidential/Privileged Information			
008: IT Infrastructure			
009: Means of Entry to Living Spaces			
010: Pharmaceutical/Drug Inventory			
011: CDC Defined Toxins			
012: Weapons/Explosives			
013: City Property Valued > \$100			

You may request a hearing before the Civil Service Commission on your future employability with the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability. You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 20 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 9/11/2023. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (Note: Future Employment Restriction(s) effective immediately).

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

List		Rank #:		<input type="checkbox"/> Pending	<input checked="" type="checkbox"/> Final	Status of Action
DSW						
Emp Organization:	TWU Local 250A			SIGNATURE		
METHOD OF SERVICE:				Shana Dines		
<input type="checkbox"/>	Hand Delivered			NAME		
<input checked="" type="checkbox"/>	Certified Mail	7021 2720 0003 2390 4439		Employee & Labor Relations Manager		
				TITLE		

INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION

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

DEPARTMENT INSTRUCTIONS FOR COMPLETING FORM DHR 1-13E

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

Use this form when:

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

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

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

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

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

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

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

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

Indicate status of action:

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

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

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

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

Exhibit I



TRANSPORT WORKERS UNION OF AMERICA

LOCAL 250A AFL-CIO

1508 FILLMORE ST. #211 ~ SAN FRANCISCO, CA. 94115

(415) 922-9495 www.twusf.org

ANTHONY BALLESTER
PRESIDENT

PETER WILSON
EXECUTIVE VICE PRESIDENT

MICHAEL DENNIS
SECRETARY TREASURER

VERTRINA Z. DAVIS
RECORDING SECRETARY

VICE PRESIDENTS
ROBERT M. GAINER
KARL CATO
LAN LAU

EXECUTIVE BOARD
Zhuo Ma
KEVIN DAVIS
Terrance Hall
EVA CHAU
LYLE BAGGAO
Ken Lau

August 23, 2023

157-23-WD

San Francisco Municipal Transportation Agency
1 South Van Ness
San Francisco, CA 94103

Dear Employee Relations,

We are requesting a Step-3 hearing for Reginald Rogers,
Cap 4662 regarding.

Management did not address 19.1 or 19.4. Some of the
statements are questionable.

Sincerely
Pete Wilson
Executive Vice President
TWU Local 250A

Exhibit J

David A. Weinberg
Arbitrator
Mill Valley, CA

DECISION AND AWARD

In the Matter of a Controversy between

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY, Employer

And

Transport Workers Union Local 250-A, Union

Re: Step 3 Hearing, Reginald Rogers – Grievance #157-23-WD

For the Employer:

Aileen Huang
Labor Relations SFMTA

For the Union:

Pete Wilson
Executive Vice President, TWU Local 250-A

PROCEDURAL BACKGROUND

Pursuant to the Agreement between the San Francisco Municipal Transportation Agency (hereinafter SFMTA), and the Transport Workers Union Local 250-A (hereinafter Union) the parties selected David A. Weinberg as the Arbitrator pursuant to Article 22 of the CBA. As a result of this dispute a hearing was held on August 30, 2023. During the hearing, the Arbitrator afforded both parties full opportunity for the presentation of evidence and oral argument. The parties stipulated the matter is properly before the Arbitrator for resolution.

The parties submitted to the Arbitrator the following issue:

Was there just cause for the termination of Reginald Rogers, and if not, what is the appropriate remedy?

FACTUAL SUMMARY

On March 31, 2023, Reginald Rogers was operating Coach 8748 on the L Line. At around 11:35 pm the Grievant told several passengers at the end of the line that it was the last stop and they needed to leave the coach, as he needed to go to the bathroom. One passenger who was visibly impaired and/or mentally challenged, would not leave the coach and was leaning and lying on seats by the rear door. The Grievant is seen on the video leaving the rear door of the coach for a brief moment and returns to the coach via the rear door. He is seen at this time with a pinkish colored small object in his hand. At 23:35:23 he is seen in the video with his thumb extended on the top of the pink object as he approaches the passenger who is lying down on the coach seats. He moves closer towards the passenger with the pink object still in his hand and passes by the passengers head and face. After the Grievant moves past the passenger who is laying down on the seats, the passenger can be heard to begin screaming and crying out and then falls to the

floor and begins to crawl out the rear door. He eventually crawls out onto the sidewalk, and then the street. He can be heard to continue to cry out and complain about his eyes. The Grievant left the coach at this time to use the bathroom. When he returned to the coach, he called TMC after noticing feces in the seat area where the passenger had been laying down. The Grievant talked to some other riders trying to take his coach and he told them it was out of service, and soon after drove to the yard to return the coach with the feces at the direction of TMC. Inspector Ali Azam was assigned to investigate this incident at 12:49am with the assistance of maintenance staff. They found feces on the seat where the passenger was sitting and noticed a substance on the floor which they believed was from some type of spray. The SFPD arrested the Grievant at the Division that night. In Azam's narrative section of the Transit Inspector Report he wrote:

"I was on an assignment to assist an operator on the #8 Line, with a sleeper on the coach. As I was headed towards Kearney and North Point, operator called TMC back and stated the sleeper had exited the coach. As I was in the area of Jones and Beach, I noticed Emergency vehicles, blocking the L-OWL terminal at Jones and Beach. I proceeded towards Jones and Beach and inquired with SFPD unit #3A13E regarding the situation. SFPD unit #3A13E informed me that a passenger was pepper sprayed by a Muni operator. Party #2 (African American Male) was laying on the opposite side of the street (North Bound), screaming in pain. Party #2 was screaming that his face was burning and had snot coming from his nose. Party #2 gave a description of the operator to SFPD #3A13E as an African American Male with a grey beard. I checked with SFPD as to the time of the call to 911. SFPD informed me the call came in at 23:46. I contacted TMC and inquired if any operator had reported an incident on his/her coach. TMC was not

contacted. TMC then assisted me in locating the coach, which had left the terminal around the 23:46 time frame. Coach #8748 was ordered to pull in the coach, due to feces on the coach. Contacted TMC and informed them to hold the Operator and the coach at Woods Division for an operator interview. In route to woods division, I contacted 5M4 to assist me with the video pull from the coach. Upon my arrival at Woods division yard, operator 4662 was assigned a new coach and was awaiting my arrival. Coach #8748 was held on track #3B lot. 5M4 responded to the scene and SFPD unit #3813E responded to the scene. Per video review it was confirmed at party two was assaulted by operator for # [REDACTED] with Pepper spray at 23:35 hours. Operator #4662 was then apprehended by SFPD. Operator # [REDACTED] was also placed on Non-Driving Status. Woods Division dispatcher was notified and provided with the Non Driving Status form. Coach #8748 was released back to the yard starters for cleaning and maintenance.” In the Operator’s/Driver’s Version of the Incident section of this Report Azam wrote: “Passenger refusing to get off the coach at the end of the line at Beach and Jones. I told him that I have to go to the bathroom and needs to exit the bus. He started to roll in the seats and then he fell to the ground by the rear door. He then got off the coach and I close the doors and went to the bathroom. When I came back from the restroom, I noticed feces on the seat and I called TMC. TMC told me to pull the bus in and get another bus.” The Grievant was booked in County Jail 2 at 5:37 am for Statute #22810(g)(1) PC/F with a Description of “Use of Tear Gas.” The Grievant called in sick on Monday April 3, 2023. The Grievant stated in his investigative interview and in the Step 3 Hearing that he did not pepper spray anyone and the item in his hand was a safety tool used to cut seat belts and that his arrest was related to an issue of mistaken identity. Monica Collins, Kirkland Division Manager and the Skelly Officer, wrote in her May 17,

2023 decision: *“Operator Roger’s unseemly behavior of spraying a passenger with a substance resulting in injury and the aggressive interaction with an intending customer is not conducive to the mission of the SFMTA which is to provide safe and reliable service. Therefore, the proposal that operator Reginal Rogers, Jr., [REDACTED] be dismissed from his position as a 9163 Transit Operator is **upheld**.”* He was dismissed for violating 2.8 Conduct: 2.8.1, 2.8.10, 2.8.12, 2.8.17 and 2.21 Safety: 2.2115, 2.21.16.

DISCUSSION AND ANALYSIS

There is no question that the Employer would have just cause to terminate any employee who used pepper spray on a passenger unless they were doing so in a response to an attack upon them. There must however, be convincing evidence that the employee engaged in this act. In this case, the Employer has presented such convincing evidence that the Grievant used pepper spray against a passenger on March 31, 2023. The Union is correct to point out that the mere fact the Grievant was arrested that evening for this act is not sufficient proof that engaged in this activity. However, I am convinced by the video evidence that he did use pepper spray against the passenger depicted in the video. The video shows the Grievant after returning to the coach, holding an object in his hand with his thumb on the top of it as if to spray something. While I cannot see spray coming out of the pink object in convincing detail on the video, the reaction of the passenger within a few seconds of the Grievant approaching his face with the pink object in his hand, is convincing proof to me that the passenger was sprayed with a caustic substance. The Grievant’s claim that he was holding a cutting tool instead of a spraying device while not accepted by me, is in and of itself inappropriate, as he should have not approached a passenger who was obviously impaired with a dangerous cutting tool in his hand. While

Operators have every reason to be cautious and worried about interacting with dangerous passengers, they are not free to approach them with cutting tools in their hand. If the Grievant was worried for his safety, which he had every right to be, he should have not reentered the coach and should have simply called the police. The Employer has presented convincing proof that the Grievant violated 2.8 and 2.21 as charged and the penalty of termination meets the standards of just cause.

DECISION

The Employer had just cause to terminate Reginald Rodgers. The grievance is denied.



David A. Weinberg
September 1, 2023

Exhibit K

WORKPLACE VIOLENCE PROHIBITED

Policy Prohibiting Employee Violence in the Workplace

The City is committed to maintaining a workplace free from violence and threats of violence, and will not tolerate any acts or threats of violence in the workplace. Any act or threat of violence in the workplace is strictly prohibited and should be reported immediately.

“Violence” includes both acts and threats of violence. For example, violence includes any conduct, verbal or physical, which causes another to reasonably fear for his or her own personal safety or that of his or her family, friends, associates, or property.

Employees are also prohibited from possessing, storing or having control of any weapon on the job, except when required by the City department in the performance of the employee’s official duties. Weapons include, but are not limited to, firearms, knives or weapons defined in the California Penal Code Section 12020.

Failure to comply with these policies may result in employee discipline up to and including termination as well as criminal prosecution.

Reporting and Responding to Workplace Violence

All employees are responsible for reporting any acts of intimidation, threats of violence or acts of violence to their supervisor, manager or departmental personnel officer. Supervisors and managers are responsible for documenting and reporting all observed or reported incidents of workplace violence.

Exhibit L



Equitable, Fair, and Respectful Workplace Policy

The City and County of San Francisco (City) is committed to promoting and maintaining a safe and healthy working environment where every individual is treated with civility, dignity, and respect. To this end, it is the policy of the City to provide a workplace where each employee has the right to work in a positive, professional, and mutually respectful atmosphere free from Disrespectful Behavior (defined below). This Equitable, Fair and Respectful Workplace Policy (Respect Policy) sets forth many of the City's values, supplements and is in addition to the City's current policies prohibiting discrimination, harassment and retaliation and prohibiting violence and threats of violence.

All City employees and City officers play a role in contributing to a truly welcoming, safe, and inclusive working environment that encourages mutual respect and promotes civil and collaborative relationships with the public and among staff, at all levels. The diversity of our employees – the wide range of backgrounds, ideas and lived experiences they bring to City employment – enriches our workplace and enhances our work. To promote and sustain a workplace where all employees and members of the public are treated with respect and dignity, and where employees feel welcomed and valued for who they are and what they can contribute, each City employee is expected to abide by the values and standards below and in this Respect Policy generally of interpersonal behavior, communication, and professionalism:

- Work honestly, earnestly, collegially and collaboratively with employees and others;
- Listen to and value the views and opinions of others, particularly when they differ from your own;
- Abide by all rules, regulations, policies, and laws and promptly bring concerns about potential violations to your supervisor or departmental Human Resources personnel.

All City employees and City officers have a responsibility to set a positive example and must refrain from engaging in Disrespectful Behavior, whether deliberate or unintentional. The City will not tolerate Disrespectful Behavior in any City workplace, and seeks to intervene at the earliest sign or stage of Disrespectful Behavior to correct that misconduct and prevent its reoccurrence. Any employee or officer who violates this policy will be subject to disciplinary actions up to and including termination.

Disrespectful Behavior is defined as discourteous, rude, impolite, or offensive words, gestures or other behavior that may devalue and undermine a person and their dignity or self-esteem or creates an intimidating, hostile, abusive or offensive environment. Examples of Disrespectful Behavior can include, but are not limited to, the following:

- **Bullying**: bullying is a pattern of repeated behavior that a reasonable person would find hostile, offensive, intimidating, oppressive, subjugating, threatening, and unrelated to the City's legitimate business interests.

Bullying behavior may take many forms including physical, verbal, or written acts or behaviors. Workplace bullying often involves repeated abuse or misuse of power. A single physical, verbal, or written act or behavior generally will not constitute bullying unless especially severe and egregious but could nonetheless violate this Respect Policy;

- **Hostility**: yelling, interpersonal hostility or spiteful conduct, that is deliberate or repeated and/or causes harm to the targeted person's or persons' mental or physical wellbeing, safety, or economic status. This includes physical intimidation, unwanted touching, or isolation;

- Belittling conduct: name calling; playing “pranks” on a person; making fun of someone or telling jokes at their expense; taking, vandalizing, or otherwise damaging a person’s personal or work property; and spreading false information or rumors about someone; seeking submission or misuse of power, authority, rank, status, or other privilege
- Microaggressions: statements, actions, or incidents regarded as indirect or subtle invalidation, insult, irritant, disregard, prejudice, and/or discrimination against members of a marginalized group such as those having actual or perceived unequal power across economic, political, social and cultural dimensions. Microaggressions can harm someone or unfairly advantage others;
- Intimidation: using threatening or abusive language, profanity or language that is intended to be, or is perceived by others to be, demeaning, berating, belittling, rude, threatening, intimidating, coercive, hostile or offensive;
- Violence: throwing tools, office equipment, or other objects as an expression of frustration or anger or implying that one will act with violence as a method of influencing the actions of others;
- Sabotage: intentionally interfering with a process of work or otherwise undermining a person’s work.
- Invasive use of technology: using social media or other technology, to harass or bully, using statements, photographs, video, or audio that could reasonably viewed as malicious, obscene, threatening or intimidating.

Communication is nuanced and Interpersonal conflict is a normal part of work and life. Maintaining a respectful workplace relies on effective and respectful communication, patience, professionalism and understanding.

All City employees and City officers shall sign an acknowledgement of receipt and compliance with this Respect Policy.

Management’s Responsibilities

Department appointing officers, managers and supervisors must lead by example by creating and maintaining a workplace that demonstrates respect and professionalism and follows the tenets of this Respect Policy. They must respond to Disrespectful Behavior in their respective workplaces including Disrespectful Behavior by vendors, consultants or members of the public. Each city department is required to ensure that all employees receive the accompanying and required training concerning this Policy. When any employee reports that Disrespectful Behavior has occurred, human resources, managers and supervisors must treat the complaint seriously. Management should follow the guidance on managing interpersonal conflict in the workplace and contact their human resources representative for guidance on handling these kinds of situations. Human Resources must provide support to managers and supervisors upon request for guidance on conflict resolution strategies. Any appointing officer, human resources official, manager or supervisor who observes or otherwise becomes aware of Disrespectful Behavior, has a duty to take appropriate and immediate corrective and preventative action to ensure the workplace is safe for all employees. Departments shall communicate to employees that Disrespectful Behavior will not be tolerated, condoned, or ignored and there are appropriate consequences for violations of the Respect Policy. The City will provide support to its department managers or supervisors with implementation of the Respect Policy.

Training

The City will provide:

1. Mandatory training for all employees and City officers on the policy and strategies for maintaining a respectful workplace
2. Training on conflict management for managers, supervisors, and HR Professionals
3. Ongoing learning and development options on effective communication and interpersonal relationships

Exhibit M



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

**LONDON N. BREED
MAYOR**

November 3, 2023

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

Dear Jeffrey Tumlin:

I am forwarding for your review additional information submitted by Reginald Rogers on their request for hearing on their future employability with the City and County of San Francisco. This matter was forwarded to the Municipal Transportation Agency on September 19, 2023, with CSC Register No.0192-23-7.

Sincerely,

CIVIL SERVICE COMMISSION

/S/

SANDRA ENG
Executive Officer

Attachment

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

Wrongful Termination

reginaldrogers2004 <reginaldrogers2004@yahoo.com>

Wed 11/1/2023 12:42 PM

To: Tumlin, Jeffrey (MTA) <Jeffrey.Tumlin@sfmta.com>; MTABoard@sfmta.com <MTABoard@sfmta.com>; Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>
Cc: Kirschbaum, Julie (MTA) <Julie.Kirschbaum@sfmta.com>; whistleblower, CON (CON) <whistleblower@sfgov.org>; EEO@sfmta.com <EEO@sfmta.com>; CivilService, Civil (CSC) <civilservice@sfgov.org>; Maufas, Kim-Shree (MTA) <Kim-Shree.Maufas@sfmta.com>; Valentine, Greg (MTA) <Greg.Valentine@sfmta.com>

 1 attachments (54 KB)

Reginald Rogers, Demand Letter .pdf;

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

Subject: Unjust Arrest and Unfair Arbitration Proceedings

To Whom It May Concern,

I hope all is well.

My name is Reginald Rogers, and I am writing to address a grave injustice that I have experienced as a former transit operator for SFMTA. On April 1, 2023, I was unjustly arrested by SFPD, falsely accused of tear gassing someone on the coach – an act I vehemently deny. I implore you to consider the following account of the events and my subsequent experience.

I was taken into custody at the premises of my job without a clear explanation for my arrest other than vague statements provided in the car. During my detention, I cooperated fully with the officers, allowing them to search my person and personal belongings, which only contained a safety tool that I was holding at the time of the alleged incident. I believed in my innocence and had nothing to hide.

Throughout my ordeal, I repeatedly asked the arresting officers for the reasons behind my arrest. They claimed it was because of a warrant, an assertion I knew to be false. After checking my name multiple times, the female officer ran my name and found no warrant, leading to a silence that was telling. Upon arrival at the substation, I continued to assert my innocence and the injustice of my detention. My name was checked again, and it was acknowledged that there was no warrant for my arrest. Apologies were offered, but I found them unacceptable, as I had been unlawfully detained.

To my dismay, these events unfolded at my place of employment, tarnishing my professional reputation. The arrest resulted in my temporary suspension from driving, with the assumption of guilt. I consistently maintained that the item in my hand, as seen in the video evidence, was an emergency tool, not tear gas or pepper spray. The union even took photographs of the tool, which were supposed to be presented as evidence.

However, the management did not believe my protestations of innocence and seemed to equate my arrest with guilt, perpetuating a deeply troubling racial injustice. I was informed by the union that SFMTA's standard practice in such situations is to terminate an employee and have an arbitrator make the final determination. I protested this course of action, believing it to be fundamentally unjust.

Before my step 2 hearing, the union advised me not to speak but to let them handle the proceedings. I was uncomfortable with this approach, as I only wished to return to work promptly. Furthermore, I inquired about obtaining legal counsel, but I was discouraged from doing so.

As the arbitration date approached, I did not hear from the union as promised, even though they were supposed to make contact. On the day of arbitration, I was informed about a previous

case wherein a deal was struck to retain the employee's job. I was shocked and dismayed by this development and handed the union a letter and business card from Sergeant Singleton, who had previously acknowledged the injustice of my arrest.

California Labor Code Section 1102.5: This law protects employees from retaliation or wrongful termination for reporting violations of the law, including incidents of discrimination or harassment. It ensures that employees can speak out about unfair treatment without fear of reprisals.

I would like to emphasize that my arrest and subsequent treatment not only violated my rights under California Labor Code Section 1102.5, which protects employees from retaliation for reporting violations of the law but also undermined the principles of fairness and justice that are vital to maintaining a just and equitable workplace.

California Labor Code Section 1050: This section of the Labor Code addresses the legal rights of employees during arbitration processes. It may be relevant to ensuring that arbitration proceedings are conducted fairly and impartially.

I implore you to consider my right to a fair arbitration process, as guaranteed under California Labor Code Section 1050. It is essential that arbitration proceedings are conducted impartially and without bias, allowing for the presentation of all relevant evidence and a just determination of my case.

California Government Code Section 12940: This is part of the Fair Employment and Housing Act (FEHA) and addresses unlawful employment practices, including discrimination based on race. It may be relevant to your case if you believe that your arrest and subsequent treatment were racially motivated.

Furthermore, I believe that my arrest, which resulted in unjust disciplinary action, may constitute unlawful employment practices under California Government Code Section 12940, given the potential racial motivation behind my arrest and the subsequent actions taken against me.

California Government Code Section 12945: This section of the FEHA pertains to unlawful practices by labor organizations and could be relevant if you believe the union has failed to properly represent your interests.

I urge you to investigate whether the actions of the union and the arbitration process violate California Government Code Section 12945, as it pertains to labor organizations. It is essential that unions uphold their duty to represent their members fairly and impartially.

California Civil Code Section 47: This statute establishes certain privileges and immunities regarding defamation claims. It may be relevant to your demand for punitive damages for defamation of character.

Regarding my request for punitive damages for defamation of character, I would like to draw your attention to California Civil Code Section 47, which establishes certain privileges and immunities regarding defamation claims. These immunities should not be misused to shield any form of injustice or discrimination.

At the arbitration, the proceedings were marked by the arbitrator's refusal to admit my evidence, and he based his decisions solely on the video and arrest report, a report I was not allowed to contest with my factual evidence.

Moreover, I was denied the opportunity to enter evidence of the emergency tool in my hand. The outcome was unequivocally biased and partial, constituting a clear violation of my rights.

Considering these deeply concerning events and the implications they have for my professional and personal life; I request the following remedies and actions to be taken:

1. A fair hearing with an unbiased arbitrator to reconsider my case, allowing the presentation of all relevant evidence.
2. A formal apology for the distress and damage to my character resulting from the unjust arrest.
3. \$5,000 in damages to address the emotional stress and defamation I have suffered.

Additionally, I strongly recommend an investigation into potential misconduct and failure to represent by the union and the arbitrator involved in my case.

I believe that the remedies and actions I have outlined are not only just and fair but also in compliance with California state laws and employment regulations that seek to protect employees from unjust treatment.

I look forward to your response and a prompt resolution to this matter. It is my sincere hope that this letter serves as a catalyst for addressing the grave injustices I have experienced.

Thank you for your attention to this serious issue.

Sincerely,

Reginald Rogers