

**BEFORE THE BOARD OF DIRECTORS OF THE
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**In the Matter of Setting a Policy to
Most Effectively Use Resources to
Ensure Safe and Quality
Transportation for All Riders**

Resolution No. 5346

A resolution declaring the San Francisco Bay Area Rapid Transit District's commitment to be a safe, secure, inviting, equitable, inclusive transit system for the community and affirming our dedication to the values of dignity, respect, and inclusivity regardless of ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation or immigration status.

WHEREAS, The strength and vitality of our riding community and our employees come from our rich diversity of cultures, experiences, and faiths, and we celebrate that diversity; and

WHEREAS, The San Francisco Bay Area Rapid Transit District values the contributions of all our employees and customers to the economic development, vibrancy, and health of the District and region; and

WHEREAS, The San Francisco Bay Area Rapid Transit District will continue to protect the rights and dignity of all persons without prejudice or bias against ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation, or immigration status; and

WHEREAS, The San Francisco Bay Area Rapid Transit District recognizes and upholds the rights of individuals to be treated fairly and to live their lives with dignity, free from discrimination or targeting because of their faith, race, national origin, or immigration status; and

WHEREAS, The San Francisco Bay Area Rapid Transit District is committed to ensuring all employees and users of our transportation system can move safely and conveniently in our parking lots, stations, trains, buildings, and facilities; and

WHEREAS, The San Francisco Bay Area Rapid Transit District's methods will continue to stress cooperation with riders based on trust rather than fear and to emphasize prevention of crime; and

WHEREAS, It is not the practice of the San Francisco Bay Area Rapid Transit District to inquire as to one's citizenship status for enforcing federal immigration laws; and

WHEREAS, The San Francisco Bay Area Rapid Transit District does not have the authority nor the desire to stop or arrest individuals based on a perceived immigration status; and

WHEREAS, The San Francisco Bay Area Rapid Transit District Board of Directors, as elected representatives of the people, and its management, have a special responsibility not to stay silent in the face of hate and discrimination against any of our customers, employees or contractors, and we choose to be a leader in protecting human rights, equity, public safety and social well-being; and

WHEREAS, The San Francisco Bay Area Rapid Transit District recognizes the Constitution of the United States and the Constitution of the State of California enshrine the fundamental inalienable rights of Americans including the freedom of religion, freedom of speech, right to assembly, right to privacy, and equal protection under the law for all persons, regardless of religious affiliation, race, national or ethnic origin, gender, gender identity, sexual orientation, or immigration status;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS AS FOLLOWS:

Section 1. The Board of Directors reaffirms its commitment to make the San Francisco Bay Area Rapid Transit District an inviting, equitable, and safe community for everyone who uses our system or works for the District.

Section 2. The Board of Directors reaffirms its commitment to stand together with the people of the Bay Area in opposing hate, violence, and acts of intolerance committed against our riding community and employees.

Section 3. The Board of Directors reaffirms its commitment to continue our work to reach out to and connect with our community and our employees to ensure that system is accessible, inviting, and open to all individuals.

Section 4. In its authority to set policy for the San Francisco Bay Area Rapid Transit District to most effectively use its resources to ensure safe and quality transportation for all riders, the Board of Directors issues the following policy directive:

Section 4.1. No Funds or Resources Used to Enforce Federal Immigration Law: No employee of the San Francisco Bay Area Rapid Transit District shall use any District funds or resources to assist in the enforcement of federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information unless such assistance is required by federal or state statute, regulation, or court decision. The prohibition set forth in this resolution shall include, but shall not be limited to:

4.1.a. Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the federal agency charged with enforcement of the federal immigration law and relating to alleged violations of federal immigration law, except as required by federal or state law or court order.

4.1.b. Requesting information for the sole purpose of obtaining immigration status or any other such personal information of riders, employees, or other individuals that BART employees interact with that is designed solely to determine immigration status, except as required by federal or state law or court order.

4.1.c. Conditioning the provision of services or benefits by the San Francisco Bay Area Rapid Transit District upon immigration status, except as required by federal or state statute or regulation, or court decision.

4.1.d. Disseminating information regarding the release status, date, and time of any individual in BART Police custody, except as required by federal or state law or court order.

4.1.e. Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the San Francisco Bay Area Rapid Transit District any question regarding immigration status other than those required by federal or state statute, regulation, or court decision. Any such questions existing or being used by San Francisco Bay Area Rapid Transit District at the time this resolution is adopted shall be deleted within 60 days of the adoption of this resolution.

4.1.f. Providing access to individuals in BART Police custody for the purposes of immigration enforcement, except as required by federal or state law or court order.

4.1.g. Using threatening language regarding assisting the federal agency charged with enforcement of the federal immigration law in detaining or deporting employees, riders, or other members of the public who the San Francisco Bay Area Rapid Transit District interacts with or encounters.

4.1.h. Requesting more or different documents than are required under federal law for establishing employment eligibility or for making decisions regarding non-citizen applicants for San Francisco Bay Area Rapid Transit District ridership programs.

4.1.i. Conditioning the provision of employee training and development benefits and services, provided by the San Francisco Bay Area Rapid Transit District upon immigration status, religion, race, ethnicity, national origin, gender or gender identity, except as required by federal or state law or court order.

4.1.j. Using the federal E-Verify program or cooperating with any external I-9 inspections to verify that any type of worker for the San Francisco Bay Area Rapid Transit District or District subcontractors, are authorized to work in the United States, except when required by federal or state law or court order.

Section 4.2. Training: Relevant BART employees shall be trained on this policy.

Section 4.3. Communication of this Policy to all Employees: This resolution shall be communicated to all BART employees. Upon completion of the department job class specific protocols and procedures, those protocols and procedures shall be sent to appropriate staff.

Section 4.4. No Rights Granted through this Policy: This resolution does not confer any additional rights upon any party nor does it grant the authority to any individual to take legal action upon BART or any BART employee for violation of this policy.

Section 5. The Board of Directors' enactment of this resolution should not be construed to conflict with Title 8, Section 1373, of the United States Code.

PASSED AND APPROVED this 22 day of June, 2017.