



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
INDEPENDENT OFFICE OF THE INSPECTOR GENERAL

# SUMMARY OF NEPOTISM INVESTIGATIONS

## INVESTIGATION RESULTS



A BART Employee participated in the decision to hire their relative and had management control over the relative's organizational work area. The relative is among the prohibited relationships described in BART's [Employee Code of Conduct](#). The Employee said that their direct manager was aware of the relationship, but the direct manager said they had no knowledge of it. Likewise, there was no documentation showing that the Employee reported the conflict to their direct manager prior to participating in the decision to hire the relative. However, the Employee did disclose the relationship to others who participated in the hire decision.

The evidence we uncovered did not support that the relationship led to theft or misappropriation. However, having management control over the relative's organizational work area would have allowed the Employee to circumvent BART procedures that protect against fraud and abuse.

The above summarizes one of three independent Office of the Inspector General (OIG) investigations into allegations that BART managers hired or supervised relatives. We substantiated the first allegation but found no policy violations with the other two investigations. We are providing this report to comply with California Public Utilities Code [§ 28841](#). Our investigations are based on whistleblower complaints reported to us in good faith.

## RELEVANT DISTRICT POLICY



Section XI of the District's Employee Code of Conduct strictly prohibits nepotism. According to Section XI:

*“District Officers and employees shall not participate in the making of a decision to hire, appoint, employ, promote, or terminate a [relative]... including attempting to persuade another District officer or employee to make a decision or take an action affecting a relative of the officer or employee.”*

## WHY THIS INVESTIGATION MATTERS



Nepotism can lead to fraud and corruption, and results in a lack of transparency and accountability. It is also a poor reflection of organizational priorities, working environments, and overall business practices; can damage a public agency's reputation; and provides an unfair advantage to certain applicants. In extreme cases, nepotism can be unlawful discrimination since family members are likely to be from the same race and national origin, meaning other protected classes are unable to meaningfully compete for public employment.

## RECOMMENDATIONS IN BRIEF

To reduce the risk of fraud and abuse, BART management should:

- Remove the relative from the Employee's span of control.
- Address the policy violation in accordance with District rules.
- Require temps and interns to disclose potential conflicts.
- Document familial relationships between BART employees.
- Document mitigating controls addressing familial relationships between BART employees.

See page five for details.

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## ALLEGATION ONE OF THREE

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The OIG investigated a complaint that a BART Employee hired and supervised a relative. We substantiated the allegation by determining that the Employee participated in the decision to hire the relative, influenced their colleagues in making the final decision, and had management control over their relative's organizational work area.

In 2022, BART hired paid interns to work on a short-term project. Evidence supports that the Employee served on the committee that selected the interns and that their relative was among those hired. Evidence also supports that the Employee introduced their relative to the committee as an intern candidate and that Human Resources processed the employment of the relative through a temporary employment agency (temp-agency). Similarly, evidence confirmed that a direct report to the Employee was responsible for reviewing and approving the relative's time and temp-agency invoices, placing those actions within the Employee's management span of control. Over \$21,000 in wage invoices were approved for the relative, but evidence supports that those payments were for time worked by the relative. We saw no evidence of fraud or misappropriation.

BART's Employee Code of Conduct prohibits participating in a decision to hire a relative, including influencing that decision, and having control over a relative's organizational work area. Relative is defined as "husband, wife, domestic partner, father, mother, grandfather, grandmother, son, daughter, stepson, stepdaughter, granddaughter, grandson, brother, sister, uncle, aunt, nephew, niece, father-in-law, mother-in-law, daughter-in-law, sister-in-law, and brother-in-law." We confirmed that the relative is among the prohibited relationships defined in the Employee Code of Conduct.

According to the Employee, their direct manager and members of the project committee were aware of the familial relationship. We interviewed three members of the committee who corroborated that statement but who could not confirm that the direct manager was specifically told about the relationship. When asked, the direct manager said they did not know about the relationship. In our review of documentation, we found no records supporting that the direct manager was formally notified of the relationship prior to the hiring of or during the relative's employment.

In addition to the policy violation, we determined that BART's process for hiring interns or temp-agency employees lacks a formal step to identify potential conflicts of interest. Unlike BART's process for direct hires, those involved with selecting temp-agency staff or intern candidates are not required to disclose personal, business, or familial relationships during the selection process.



### Critical Information

The OIG substantiated a violation of the Nepotism section of the District's Employee Code of Conduct but did not identify theft or misappropriation resulting from that violation.

## Allegation One Recommendations

1. Ensure the Employee no longer has management control over their relative.
2. Address the policy violation in accordance with the Non-Represented [Employee] Handbook.
3. Require that all employees disclose to Human Resources in writing any business, personal, or familial relationships with any potential temp-agency or intern hire.
4. Require all temp-agency staff and interns to affirmatively disclose any business, personal, or familial relationships with any BART official or employee prior to the application or selection process.
5. Formally document known familial relationships between District employees and provide the information to Human Resources and to the General Manager, Deputy General Manager, or Assistant General Manager as appropriate based on the organizational work area of the involved employees.
6. Implement and document mitigating controls that ensure familial relationships between BART employees will not result in one relative supervising the other or having control over the other's work area.

*Management five with the OIG's recommendations. See page five for their responses.*



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### ALLEGATION TWO OF THREE

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The OIG received a whistleblower complaint that a former BART manager hired a relative for a paid internship program. We did not substantiate the allegation though there was a distant familial relationship between the former manager and the paid intern.

In 2022, the former manager's department selected seven summer interns to be employed by District contractors to work on BART funded projects. All interns received a welcome letter on BART letterhead that said, "On behalf of Bay Area Rapid Transit (BART), I am pleased to extend to you this offer of temporary employment...." Evidence supports that the former employee was involved in the hiring process for the relative and signed their welcome letter. However, the relative is not one of the prohibited relationships listed in the Employee Code of Conduct. Also, according to the former manager, they did not know that the person hired as an intern was a relative as they have a distant familial relationship. We noted that they have a common surname. The former employee learned of the relationship after the relative was hired. The District paid the former manager's relative \$10,980 for 488 hours of work performed for BART under a District contract. Because there was no policy violation, we did not substantiate the allegation. Likewise, we saw no indications of fraud or misappropriation.



#### Critical Information

The OIG did not identify policy violations in investigations two and three, therefore, did not substantiate either allegation.

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### ALLEGATION THREE OF THREE

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The OIG received a whistleblower complaint that a senior BART manager hired and promoted a sibling for District employment. The complainant further alleged that the sibling hired and promoted another sibling thus creating familial relationships among the BART manager and two employees within their management span of control. We did not substantiate the allegation.

Evidence did not support a relationship among the three BART employees. Official records available to the OIG did not identify a close or distant relationship between the BART manager and either of the two employees, nor did it identify a close or distant relationship between the two BART employees under the manager's span of control. We interviewed the three employees and they said that they had previously worked elsewhere together, but they were not related. We examined recruitment materials and confirmed that the BART manager and the two employees either did not serve on the hiring and promotion selection panels, or properly disclosed in writing to Human Resources their personal associations with each other before serving on those panels.

**MANAGEMENT RESPONSE**

Allegation One Recommendations		
1.	<b>Recommendation:</b>	Ensure the Employee no longer has management control over their relative.
	<b>Implementation Date:</b>	01/17/2024
	<b>Corrective Action Plan:</b>	The employee at issue no longer works for the District.
2.	<b>Recommendation:</b>	Address the policy violation in accordance with the Non-Represented [Employee] Handbook.
	<b>Implementation Date:</b>	Dec 2023 – Jan 2024
	<b>Corrective Action Plan:</b>	An investigation and administrative hearing was conducted to address the underlying policy violation.
3.	<b>Recommendation:</b>	Require that all employees disclose to Human Resources in writing any business, personal, or familial relationships with any potential temp-agency or intern hire.
	<b>Implementation Date:</b>	Dec 2023
	<b>Corrective Action Plan:</b>	The District’s temp-agency hiring processes have been amended to require disclosure of any business, personal and/or familial relationship with an existing BART employee.
4.	<b>Recommendation:</b>	Require all temp-agency staff and interns to affirmatively disclose any business, personal, or familial relationships with any BART official or employee prior to the application or selection process.
	<b>Implementation Date:</b>	Dec 2023
	<b>Corrective Action Plan:</b>	The District’s temp-agency hiring processes have been amended to require disclosure of any business, personal and/or familial relationship with an existing BART employee.

Allegation One Recommendations		
5.	<b>Recommendation:</b>	Formally document known familial relationships between District employees and provide the information to Human Resources and to the General Manager, Deputy General Manager, or Assistant General Manager as appropriate based on the organizational work area of the involved employees.
	<b>Implementation Date:</b>	Spring 2024
	<b>Corrective Action Plan:</b>	The District's temp-agency hiring processes have been amended to require disclosure of any business, personal and/or familial relationship with an existing BART employee. In addition, BART is currently engaging Labor in the Meet & Confer process regarding the BART Nepotism Policy which will address this issue.
6.	<b>Recommendation:</b>	Establish and formally document mitigating controls that ensure familial relationships between BART employees will not result in one relative supervising the other or having control over the other's work area.
	<b>Implementation Date:</b>	Spring 2024
	<b>Corrective Action Plan:</b>	BART is currently engaging Labor in the Meet & Confer process regarding the BART Nepotism Policy which will address mitigation controls that will prevent one BART employee from having control over the work of another with who they have a familial relationship.

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