

# **HUMAN RESOURCES 2014 EEO EMPLOYEE DISCIPLINE REPORTING**

*PROGRAM EVALUATION AND AUDIT*



**METROPOLITAN  
C O U N C I L**

March 2016

# INTRODUCTION

## *Background*

Title VII of the Civil Rights Act of 1964 protects employees from discrimination in hiring, promotion, discharge, pay, job training, and other aspects of employment, on the basis of race, color, religion, sex, or national origin. In accordance with this law, the Federal Transit Administration requires that recipients of federal funding conduct detailed assessments of employment practices to identify causes of underutilization. As part of this assessment, recipients, including the Metropolitan Council, are required to provide statistical data to document the number of disciplinary actions and terminations by race, national origin, and sex.

## *Purpose*

The purpose of this review is to evaluate best practices surrounding employee discipline tracking so as to ensure the Council is fully compliant with all federal regulations and is in line with its goals for equity and equal opportunity. Accordingly, objectives of this review are to:

- Identify the necessary employee discipline statistics for EEO compliance and improved operations
- Review the current internal processes for reporting of employee discipline and identify areas of possible improvement
- Collect and review available data for the year 2014 on employee discipline and compute necessary data analyses
- Review how similar agencies track and report discipline data to the FTA

## *Scope*

Federal, state, and Council policies and procedures were reviewed. Similar organizations across the United States were examined. Council-wide discipline data by race and sex for the period January 1, 2014 to December 31, 2014 was collected and reviewed.

## *Methodology*

- Reviewed relevant policies and procedures
- Reviewed Council union contracts
- Reviewed FTA regulations regarding discipline reporting
- Conducted interviews with directors and managers across the Council
- Gathered and collected data for each division pertaining to discipline
- Examined the methods of discipline reporting used by two organizations similar to the Metropolitan Council.

## *Assurances*

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and the U. S. Government Accountability Office's *Government Auditing Standards*.

# OBSERVATIONS

## **The Metropolitan Council's methods of data collection and reporting on employee discipline are not aligned with current best practices.**

The FTA specifies that, "Recipients/subrecipients/contractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization." This assessment must contain, "The number of disciplinary actions and terminations, by race, national origin, and sex, within the past year. The number of types of disciplinary actions and terminations (e.g., indefinite supervision, loss of pay, demotion, etc.)."

Without disciplinary statistics, the Council appears to be noncompliant with the regulations set forth by the Federal Transit Administration. This jeopardizes the funding received from the FTA by the Council.

### ***Met Council is not performing best practices and is lagging behind peer agencies.***

The Council was compared to two other transit agencies, referred to as Agency 1 and Agency 2 in this report, and was found to be lacking. Both agencies have processes for reporting discipline data. Agency 1 and Agency 2 each have a central individual or office where all discipline information is reported. For Agency 1, all discipline data is centralized in Human Resources and overseen by the EEO Officer. For Agency 2, all discipline is reported to the Manager of Civil Rights. Agency 1 and Agency 2 have different methods for moving discipline data to these central locations. Agency 2 asks office secretaries to send a copy of each discipline issued to the Manager of Civil Rights while Agency 1's HR department compiles discipline data held in multiple databases within the agency. See Appendix A for additional information on how Agency 1 and 2 compare to the Council and data provided from Agency 2.

In comparison, the Council, much like Agency 1, has discipline information held in multiple databases and manager files across the Council. However, the Council does not centralize this information in a single location for easy reporting.

Other agencies the FTA has audited in the past for EEO compliance were able to provide a breakdown of disciplinary data by each year into the various job groups by gender and ethnicity. They were able to show that minorities and women are disciplined at rates comparable to their representation in the workforce. The Met Council is unable to provide this information. A lack of disciplinary statistics hinders the Council in its goal of creating a more equitable region.

### ***Obtaining the data is impractical and cumbersome.***

Audit went through the process of collecting all discipline data council-wide for the year 2014. In order to obtain the information, it was necessary to contact each division individually. For Regional Administration and Metro Transit, a manager from each office had to be contacted – 36 different directors or managers in all. A visual representation of where discipline data was obtained across the Council can be seen in Appendix B. The data was provided in a range of formats (including pdfs, excel work books, word documents, and email text), which required standardization for useful analysis. It is important to note that most offices were only able to provide the name or employee number of the individual and the type of discipline. The race, gender or job group was unavailable. This had to be obtained by cross referencing this data with employee records in PeopleSoft Human Resources. In terms of time, it took about three months to contact and obtain data from each division. This is impractical considering the time and resource constraints of both HR and OEO.

It is important to note that this data only showed discipline data for women and minorities as a whole. For full compliance to FTA regulation, the Metropolitan Council would need to further break this data down by race and job group.

Within Metro Transit, Bus Transportation and Bus Maintenance partnered to launch a new system called iDASH, a single database to substitute for the multiple standalone systems currently in use. However, Regional Administration was unaware that Metro Transit was implementing iDASH until after it was already in development. As a potentially beneficial system for Council-wide use, an opportunity was missed for other divisions to benefit from the system. HR has mentioned that the iDASH system is scalable should the Council choose that route.

***Discipline data from each department does not go to a central location.***

Divisions are not required or asked to report data information to a centralized location. One division, Environmental Services, has written procedures for reporting discipline to HR. For three other divisions, Regional Administration, Community Development, and Metropolitan Transportation Services, it is generally understood that if a disciplinary situation were to arise, HR would be contacted and involved. However, there are no written policies to formalize this. Metro Transit, the largest division in the Council, likewise has no policies concerning reporting of disciplinary information to anyone outside of Metro Transit. Discipline data is currently kept in multiple locations within the division. Even with the implementation of the new system, iDASH, there is no mechanism for the data to be communicated to a Council-wide central point.

**The quarterly disciplinary reports specified in the Council's Affirmative Action Plan are not being completed.**

The plan states that OEO is responsible for a quarterly report on disciplinary actions, which "provides statistical data on suspensions, demotions, and other hire or promotion" (pg. 19). OEO is also responsible for a quarterly report that provides statistical data on terminations.

***The Office of Equal Opportunity does not have the data necessary to generate such reports.***

For other reports that OEO produces (such as the monthly utilization reports and the EEO-4), much, if not all, of the data comes from Human Resources. However, when it comes to discipline, HR only has data on involuntary separations and grievances. HR provided limited discipline data to OEO for an EEO-4 report in 2015. However, OEO was not able to access this report and was not able to provide the discipline data given to them, effectively rendering the data useless. Additionally, there is currently no single office or computer system that contains all of the data necessary to report on disciplinary actions Council-wide. The Director of OEO stated that obtaining the necessary information would require seeking data from HR as well as each division in the Council.

***There is a confusion of roles and a lack of communication.***

Although the Affirmative Action Plan is very clear about departmental responsibilities, in practice the roles are less clear. From talking with both Labor Relations in HR and the Director of OEO, there was confusion as to who was responsible for what. OEO stated that they should be responsible for collecting the data, while the Affirmative Action plan states that HR is responsible for providing data to OEO for their reports. Additionally, HR expressed concern that OEO was not providing them with enough information – although there are no requirements for OEO to report any information to HR in terms of discipline.

By not completing the disciplinary reports, OEO does not know if minorities and women are being disciplined at a higher rate than their representation in the workforce. There could be individuals who are disciplined or terminated unfairly because of the Council's lack of awareness. A confusion of roles and lack of communication prevents these disciplinary reports from being produced.

**Data on involuntary separations and grievances is collected and reported, but data on discipline is not.**

The Affirmative Action Plan states that a duty of Human Resources is to, "Provide data for equal employment opportunity and affirmative action reports and audits" (p. 16). Currently, HR only tracks grievance and termination data, as can be seen in the quarterly and year-end service reports produced by HR (see Appendix B). There is no policy that requires managers in the various divisions to report other disciplinary data to HR. Specifically, Metro Transit is not required to report their discipline to HR; this information is kept within the division, often within the department.

Without comprehensive disciplinary data, HR is unable to provide data for OEO to complete their disciplinary action reports. Additionally, the Council is unable to track disparities in regards to the discipline of women and minorities.

**The Council has no universal definition of discipline and the criteria for what should be considered formal discipline is unclear.**

The Council does not have a set definition of discipline that applies generally across divisions. For reporting, the Council follows the definition of discipline as provided in the union contract under which the employee falls. Staff in HR and OEO were able to confirm that both offices follow these definitions. Across the thirteen union contracts discipline roughly falls into five categories: oral reprimand, written reprimand, suspension, demotion, and discharge. However, there are some discrepancies across these contracts.

Additionally, in the case of ATU, which covers a large majority of employees in MT, the union contract does not define discipline. Accordingly, it is up to each department to determine what should be considered formal discipline. This leads to vagueness and increased difficulty in obtaining standardized discipline statistics.

## CONCLUSIONS

Council discipline data collection and tracking is decentralized across multiple divisions. The process of collection is further hindered by the lack of a universal definition of discipline. As a result, the quarterly disciplinary reports specified in the Council's Affirmative Action Plan cannot be completed. There is a possibility of unidentified disparities occurring in the discipline of women and minorities if disciplinary reports are not completed and analyzed. The Council is not following best practices in the collection and reporting of employee discipline data.

# RECOMMENDATIONS

Program Evaluation and Audit recommendations are categorized according to the level of risk they pose for the Council. The categories are:

- **Essential** – Steps must be taken to avoid the emergence of critical risks to the Council or to add great value to the Council and its programs. Essential recommendations are tracked through the Audit Database and status is reported twice annually to the Council’s Audit Committee.
- **Significant** – Adds value to programs or initiatives of the Council, but is not necessary to avoid major control risks or other critical risk exposures. Significant recommendations are also tracked with status reports to the Council’s Audit Committee.
- **Considerations** – Recommendation would be beneficial, but may be subject to being set aside in favor of higher priority activities for the Council, or may require collaboration with another program area or division. Considerations are not tracked or reported. Their implementation is solely at the hands of management.
- **Verbal Recommendation** – An issue was found that bears mentioning, but is not sufficient to constitute a control risk or other repercussions to warrant inclusion in the written report. Verbal recommendations are documented in the file, but are not tracked or reported regularly.

1. **(Essential) The Metropolitan Council should comply with federal regulations by producing analyses containing the number of disciplinary actions and terminations by race, national origin, and sex and the number of types of disciplinary actions and terminations.** This is in accordance with FTA Circular 4704.1 Ch. III and the Met Council’s Affirmative Action plan

***Management Response:***

***OEO Response:*** OEO agrees with the recommendation. Once the data has been revised and a system defined OEO will begin analyzing the information in accordance with FTA Circular 4704.1 Ch. III and the Councils Affirmative Action Plan. It would be imperative the data be complete and definable to complete a verifiable report.

***HR Response:*** HR will work with business unit partners to facilitate the design of a Council-wide system that will allow the storage and analysis of relevant disciplinary actions. HR will create a project plan to identify business requirements and design or procure the appropriate system. Once a system is developed, HR will report the FTA required data to OEO.

***Staff Responsible:*** Wanda Kirkpatrick, Director, Equal Opportunity; Marcy Cordes, Chief Labor Relations Officer

***Timetable:***

***OEO:*** Dependent on data revision and system defined.

***HR:*** Project planning will begin Q2 2016 with project completion expected within one year.

***Thrive 2040 Principles:*** Accountability

2. **(Essential) Discipline categories need to be defined and reporting procedures established.** The multiple definitions of discipline need to be categorized to ensure consistent reporting Council-wide. Reporting procedures need to be established to ensure that managers report all discipline in a consistent and timely manner.

**Management Response:** *Definitions of discipline are identified in each labor agreement. Some Council labor agreements do not include definitions. These definition must be created or modified through the collective bargaining process. Consistency between bargaining units will be difficult to achieve and will take several years. HR-Labor Relations will work to identify the current categories of discipline that should be reported under each labor agreement.*

**Staff Responsible:** *Marcy Cordes, Chief Labor Relations Officer*

**Timetable:** *This definition process will be part of the system project plan.*

**Thrive 2040 Principles:** *Integration and Accountability*

3. **(Significant) Discipline data should be centralized in one location for practical reporting.** In order to feasibly report discipline by race and gender on a regular basis, one office or department should be deemed responsible for housing and tracking discipline Council-wide. The iDASH system which is being implemented at Metro Transit may be a potential solution.

**Management Response:** *A centralized discipline reporting system must be created. There are many unanswered questions about the capability of iDash and its relevance across the entire Council. All mechanisms will need to be researched before a final solution can be determined. HR will create a project plan to identify business requirements and design or procure the appropriate system. Once a system is developed, HR will report the FTA required data to OEO.*

**Staff Responsible:** *Marcy Cordes, Chief Labor Relations Officer*

**Timetable:** *Project planning will begin Q2 2016 with project completion expected within one year*

**Thrive 2040 Principles:** *Accountability*

4. **(Significant) The Office of Equal Opportunity should retain data included in EEO-4 reports.** The data provided to the FTA in these reports need to be accessible for other reports concerning equal opportunity.

**Management Response:** *OEO agrees with this recommendation. In the past the report have been in the FTA depository and retrieved when needed. We will put the reports on the OEO MetNet sight in an open area. It will be accessible for other internal offices to review.*

**Staff Responsible:** *Wanda Kirkpatrick, Director, Equal Opportunity*

**Timetable:** *30 days*

**Thrive 2040 Principles:** *Accountability*



5. **(Significant) The roles of Human Resources and the Office of Equal Opportunity should be clarified and subsequently implemented.** It should be made clear that Human Resources is responsible for providing data to OEO for their reports and OEO is responsible for producing the reports outlined in the Affirmative Action Plan.

***Management Response:***

**OEO Response:** *The Office of Equal Opportunity (OEO) agrees with this recommendation. OEO will be responsible for producing the reports outlined in the Affirmative Action Plans for the FTA and the state of Minnesota. Data will be pulled from the HRIS system on the specified date. OEO will work with HR to ensure the data is applicable.*

**HR Response:** *HR understands that the data needs to be shared with OEO and will provide data as it currently exists in PeopleSoft and data that will be created in its future form.*

**Staff Responsible:** *Wanda Kirkpatrick, Director, Equal Opportunity; Marcy Cordes, Chief Labor Relations Officer*

**Timetable:** *Immediately*

**Thrive 2040 Principles:** *Collaboration and Accountability*

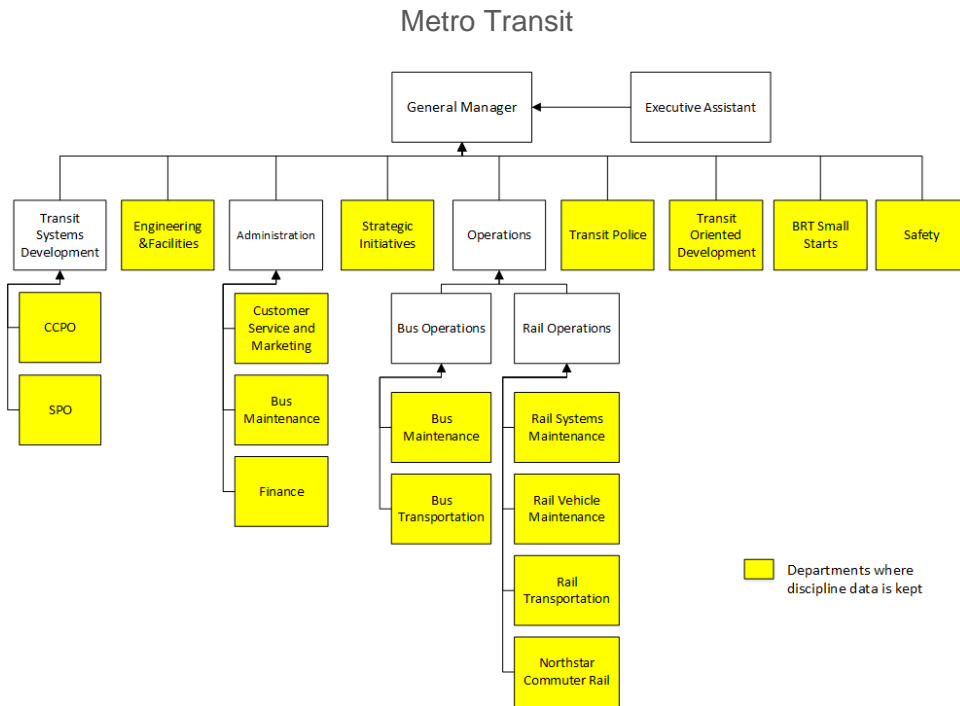
# APPENDICES

## Appendix A: Agencies 1 and 2 Comparison

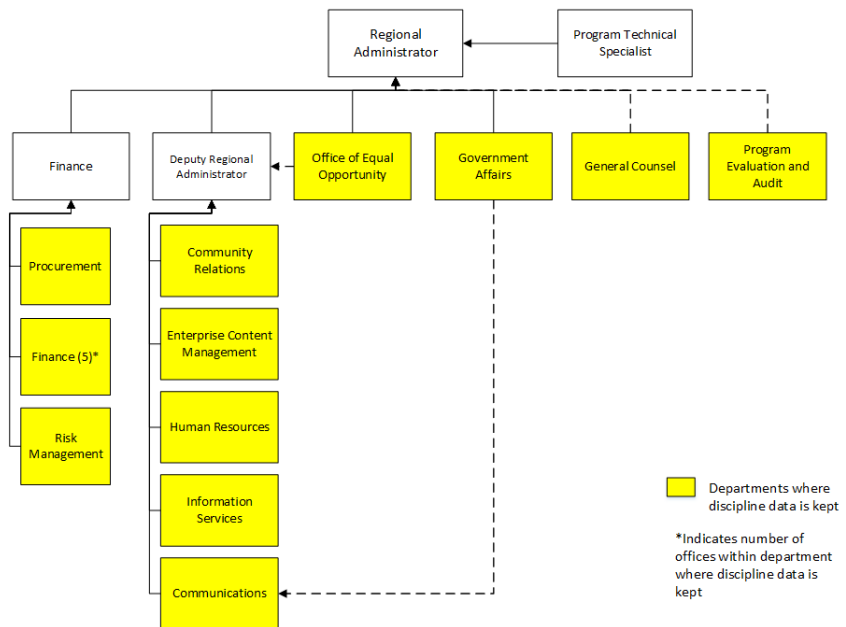
Four agencies were contacted based on similarity to the Council and past disciplinary reporting compliance. See Table 1 below for a comparison. The appropriate contacts were established by going through each agency's respective Human Resources department. We were successful in making contact with two agencies (Agency 1 and Agency 2). A short survey of questions was then sent via email to each agency. The results were compared with the Met Council's current practices.

Table 1					
	Met Council	Agency 1	Agency 2	Agency 3	Agency 4
Passenger Miles, 2012 (Thousands)	369,321.4	471,451.0	272,249.6	576,535.2	589,149.0
Unlinked Passenger Trips, 2012 (Thousands)	81,053.5	103,218.5	42,365.3	119,952.3	98,518.9
Urbanized Area Population (2010 Census)	2,650,890	1,849,898	1,021,243	3,059,393	2,374,203
Employees	4,186 (MT=3,130) [2.3.2]	2,513 [2.4.1]	2,302 [2.4.2]	4,500 [2.4.14]	2,734 [website]
Past FTA Report (if any)			2012 [2.4.8]	2011 [2.4.12]	
Source: <a href="#">American Public Transportation Association, 2014 Factbook, Tables 3 &amp; 4</a>					

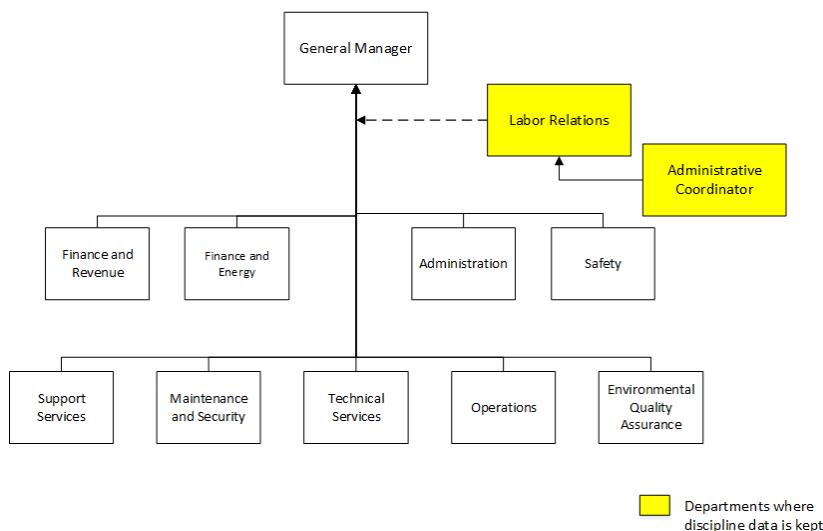
## Appendix B: Discipline Data Locations



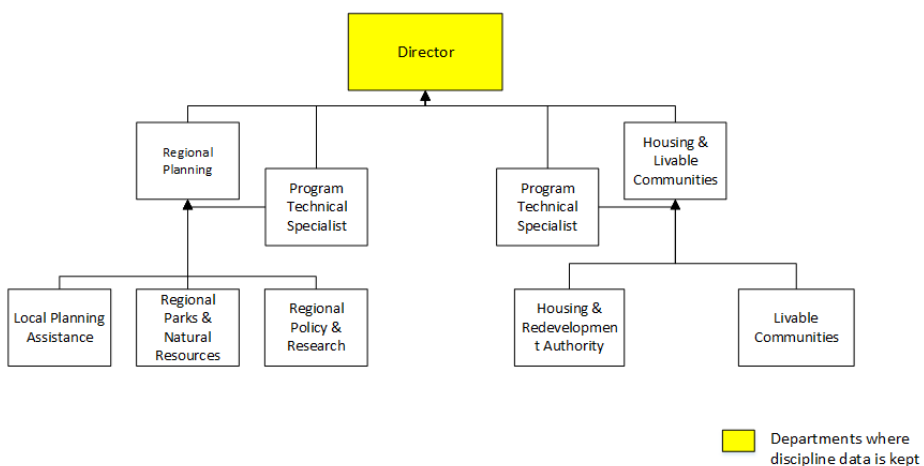
## Regional Administration



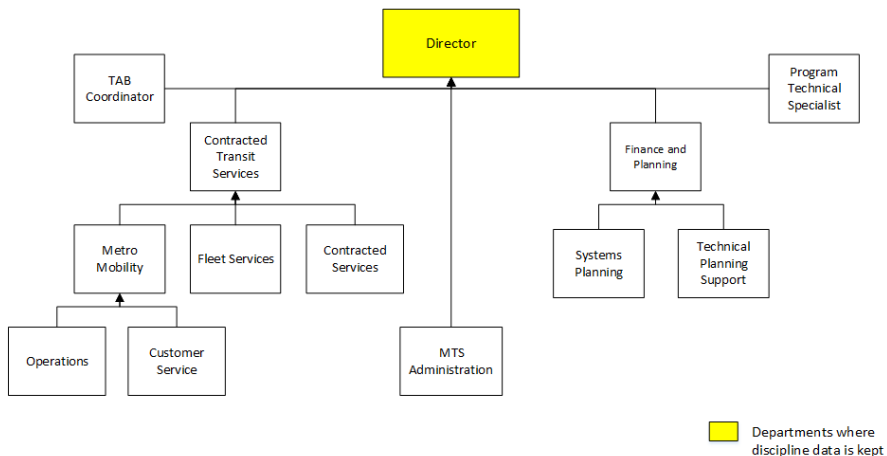
## Environmental Services



## Community Development



## Metropolitan Transportation Services



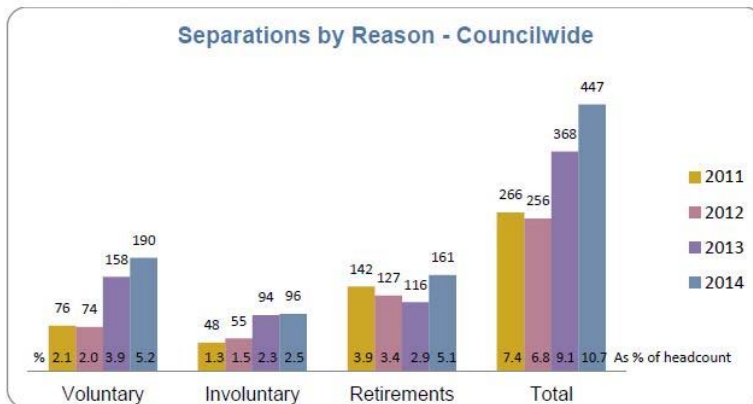
## Appendix C: HR Service Reports

The following data is from the Service Review Report – Year-End 2014. This is what HR is currently tracking in terms of discipline.

### Employee Demographics

	Head Count	Ethnic POC	Female	Disabled	Veteran	Average Age
<b>MT</b>	3130 74.8% of total	1129 36.1% of MT	678 21.7% of MT	29 .9% of MT	326 10.4% of MT	48
<b>ES</b>	626 15.0% of total	64 10.2% of ES	158 25.2% of ES	25 4.0% of ES	40 6.4% of ES	50
<b>RA</b>	430 10.3% of total	84 19.5% of RA	240 55.8% of RA	11 2.6% of RA	21 4.9% of RA	48
<b>Total 2014</b>	<b>4186</b>	<b>1277</b> 30.5% of total	<b>1076</b> 25.7% of total	<b>65</b> 1.6% of total	<b>387</b> 9.2% of total	<b>49</b>
<b>Total 2013</b>	4041	1163 28.8% of total	1007 24.9% of total	75 1.9% of total	397 9.8% of total	49
<b>Total 2012</b>	3777	1060 28.1% of total	970 25.7% of total	83 2.2% of total	358 9.5% of total	50
<b>Total 2011</b>	3617	975 27.0% of total	893 24.7% of total	92 2.5% of total	378 10.5% of total	51
<b>Total 2010</b>	3682	986 26.8% of total	897 24.4% of total	101 2.7% of total	397 10.8% of total	52
<b>Total 2009</b>	3649	971 26.6% of total	975 26.7% of total	108 3.0% of total	420 11.5% of total	53

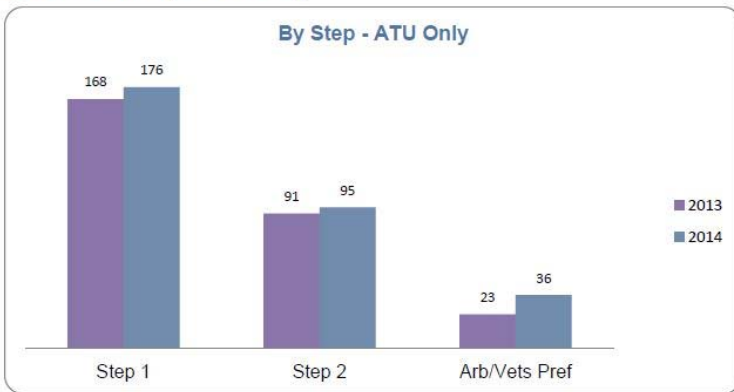
### Separations



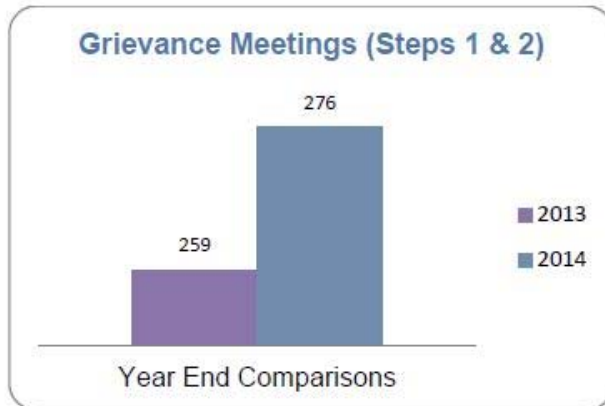
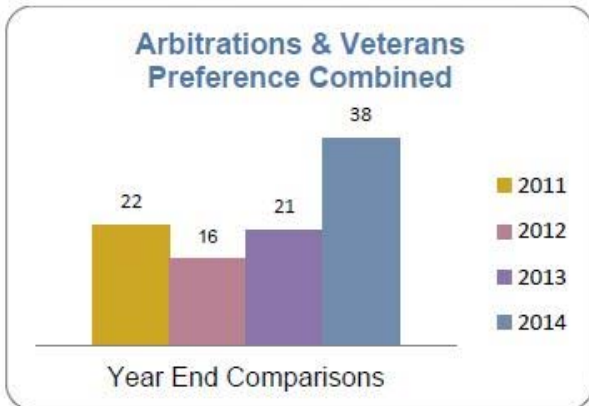
*Involuntary Separations MT – Bus Ops*

	2011	2012	2013	2014
Attendance	5	2	5	1
Death	1	4	4	5
Failed Probation	4	2	10	9
Failed to Show	0	0	5	1
Medically Disqualified	5	6	10	10
Misconduct	4	4	3	2
Unsatisfactory Performance	5	13	22	38
Violation of Rules	6	7	11	7
Other	1	0	0	0
<b>Total</b>	<b>31</b>	<b>38</b>	<b>70</b>	<b>73</b>

*Grievance Activity – ATU Only*



*Grievance Activity – All Metro Transit Unions*





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